

LEGISLATIVE

AND

DOCUMENTARY HISTORY

OF THE

BANK OF THE UNITED STATES:

INCLUDING THE ORIGINAL

BANK OF NORTH AMERICA.

COMPILED
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CHAPTER III.

Memorials presented for the renewal of the charter of bank: Gallatin's report of March 2, 1809: Dividends of old bank: Bill to establish a National Bank, reported by Mr. Love, from select committee: Bill to renew old charter, reported by Mr. Taylor, of S.C.: Bill for the same purpose, reported 4th of January, 1811, by Mr. Burwell: Debates in the House, on this bill: Ayes and noes on postponement of bill: Memorial in Senate for renewal --bill reported-- letter of Mr. Gallatin: Debates in Senate on bill to renew charter: Bill rejected, by the casting vote of Vice President: Debate in House, on Mr. Taylor's bill.

CHAPTER III.

BANK OF THE UNITED STATES.

Proceedings on the Memorial of the Stockholders of the Bank
for a Renewal of the Charter of 1791.

BY the limit fixed in the original act of incorporation, the legal existence of the bank, as a corporate body, was to cease on the 4th of March, 1811. In anticipation of that event, its directors thought it advisable, at an early period, to apply to Congress for a renewal of their powers. The circumstances connected with its origin, and its relation to the political parties, by whom the Government, at different periods of its existence, had been administered, might have suggested a doubt whether an extension of the charter would be granted. In its enactment, a large majority of Congress had, indeed, concurred, and it had enjoyed, in the outset, the entire confidence of the Executive Government of the Union; but a political revolution had been effected, and those who had given it being, were themselves, by the will of the People, divested of a controlling power. Two, among the early opposers of the bank, had successively filled the Executive chair. How far these changes in the aspect and relative condition of parties, affected the destinies of this institution, it is not for the editors to determine; but, doubtless, they were not without their influence.

The following proceedings and debates, which took place, both in the House and the Senate, on the bill to renew the charter, are of a highly interesting and instructive character, and may enable the reader to decide questions upon which the editors will not presume to speculate.

A memorial of the stockholders of the Bank of the United States, praying a renewal of their charter, was presented and read: whereupon,

A motion was made, by Mr. Joseph Clay, "that it be referred to the Secretary of the Treasury, with instruction to him to examine the matter thereof, and report his opinion thereupon to the House."

Mr. Randolph moved to postpone the consideration of the reference of the memorial, till Monday following, which motion the SPEAKER decided, was not in order.

A motion was then made by Mr. David R. Williams, that the memorial be referred to a Committee of the Whole House, which, superseding the motion for a reference to the Secretary of the Treasury, the question was taken thereon, and decided in the affirmative.

Resolved, That the said memorial be the order of the day for Monday next.

The subject, however, was not further acted on in this House during the session.

In Senate, April 20, 1808.

Mr. Gregg presented the memorial of the stockholders of the Bank of the United States, praying a renewal of their charter, for reasons stated at large in their memorial, which was read.

Ordered, That it be referred to the Secretary of the Treasury, to consider and report thereon at the next session of Congress.

March 8, 1809.

The President of the Senate communicated the report of the Secretary of the Treasury, on the memorial of the stockholders of the Bank of the United States, referred to him on the 20th of April last, which is as follows:

*Report of the Secretary of the Treasury on the subject of a
National Bank, made to the Senate, March 2, 1809.*

The Secretary of the Treasury, to whom was referred the memorial of the stockholders of the Bank of the United States, praying for a renewal of their charter, which will expire on the 4th day of March, 1811, respectfully submits the following report:---

The Bank of the United States was incorporated by act of March 2d, 1791, with a capital of ten millions of dollars, divided into 25,000 shares, of 400 dollars each. Two millions of dollars were subscribed by the United States, and paid in ten equal annual instalments. Of the eight millions of dollars subscribed by individuals, two millions were paid in specie, and six millions in six per cent. stock of the United States. Two thousand four hundred and ninety-three of the shares belonging to Government, were sold in the years 1796 and 1797, at an advance of 25 per cent.; two hundred and eighty-seven were sold in the year 1797, at an advance of 20 per cent.; and the other two thousand two hundred and twenty shares, in the year 1802, at an advance of 45 per cent.; making, together, exclusively of the dividends, a profit of 671,860 dollars to the United States. The greater part of the six per cent. stock originally paid by the stockholders, has since been sold by the bank; a portion has been redeemed by Government, by the operation of the annual reimbursement, and the bank retains at present only a sum of \$2,231,598 in six per cent. stock.

About [eighteen thousand shares](#) of the bank stock, are held by persons residing abroad, who are, by the charter, excluded from the right of voting. The stockholders resident

within the United States, and who have the exclusive control over the institution, hold only seven thousand shares, or little more than one-fourth part of its capital. They appoint, annually, twenty-five directors of the bank itself, which is established at Philadelphia; and those directors have the entire management of the discounts and other transactions of the institution in that city, and the general superintendence and appointment of the directors and cashiers of the offices of discount and deposite, established in other places. There are at present eight of those offices, viz: at Boston, New York, Baltimore, Norfolk, Charleston, Savannah, the City of Washington, and New Orleans. The two last were established at the request of the Secretary of the Treasury.

The profits of a bank arise from the interest received on the loans made either to Government or to individuals; and they exceed six per cent, or the rate of interest at which the loans are made, because every bank lends not only the whole of its capital, but also a portion of the moneys deposited for safe keeping in its vaults, either by Government or by individuals. For every sum of money thus deposited, the party making that deposite, either receives the amount in bank notes, or obtains a credit on the books of the bank. In either case, he has the same right at any time to withdraw his deposite; in the first case, on presentation and surrender of the bank notes; in the other case, by drawing on the bank for the amount. Bank notes and credits on the books of the bank, arise, therefore, equally from deposites, although the credits alone are, in common parlance, called deposites; and the aggregate of those credits, and of the bank notes issued, constitutes the circulating medium substituted by the banking operations to money; for payments from one individual to another are equally made by drafts on the bank, or by the delivery of bank notes. Experience has taught the directors what portion of the money thus deposited, they may lend; or, in other words, how far they may, with safety, [extend their discounts beyond the capital of the bank](#), and what amount of specie it is necessary they should keep in their vaults. The profits, and, therefore, the dividends of a bank, will increase in proportion as the directors will increase loans of the moneys

deposited, and suffer the amount of specie on hand to diminish. Moderate dividends, when not produced by some particular cause, which checks the circulation of bank paper, are the best evidence of the safety of the institution, and of the wisdom of its direction.

The annexed table of all the dividends made by the Bank of the United States since its establishment, shows that they have, on an average, been at the rate of $8\frac{3}{8}$ (precisely $8.13/54$) per cent. a year, and proves that the bank has not, in any considerable degree, used the public deposits for the purpose of extending its discounts.

From what has been premised, it appears that the property of a bank in full operation, consists of three general items, viz: 1st, outstanding debts, consisting principally of the notes payable at sixty days, which have been discounted at the bank: 2dly, specie in the vaults: 3dly, buildings necessary for the institution. On the other hand, the bank owes, 1st, to the stockholders, the amount of the capital stock originally subscribed, payable only in case of the dissolution of the institution: 2dly, to Government or individuals, the whole amount of moneys deposited, payable on demand, and including both the credits on the bankbooks, commonly called deposits, and the bank notes in circulation. The account is balanced by the amount of undivided profits and accruing discounts, which constitute the fund for defraying current expenses, for paying subsequent dividends, and for covering contingent losses.

The following statement of the situation of the Bank of the United States, including its branches, exhibits the true amount of public stock which is still held by the institution, of the cost of its buildings and lots of ground, and of the undivided surplus or contingent fund subsequent to the dividend made in January last. But the amount of loans to individuals or discounts, of specie in the vaults, and of moneys deposited, including both the credits on the bank books, commonly called deposits, and the bank notes in circulation, is taken on a medium; and, so far as relates, on the credit side of the account, to specie on hand, and, on the debit side, to deposits, is several millions of dollars less than it happens to

be at this moment; both having been swelled much beyond the average by the embargo, and by the unusually large balance in the treasury, which is principally deposited in the bank. Some minor items, arising from accidental circumstances, are omitted for the sake of perspicuity.

Cr.		
I. Debts due to the bank, viz:		
1. Six per cent. stock of the United States, being the residue of that part of the original subscription paid in public stocks, which is still held by the bank,	- \$2,230,000	
2. Loans to individuals, consisting chiefly of discounted notes, payable at sixty days, and, in some instances, of bonds and mortgages taken, in order to secure doubtful debts,	- 15,000,000	
3. Due by banks incorporated by the States,	- 800,000	
		<u>18,030,000</u>
II. Specie in the vaults,	-	5,000,000
III Cost of lots of ground, and buildings erected,	-	480,000
Total Cr.	-	<u><u>\$23,510,000</u></u>
Dr:		
I. Capital stock of the bank, payable to the stockholders whenever the institution may be dissolved,		
		\$10,000,000
II. Moneys deposited, viz:		
1. Credits on the bank books, commonly called deposites, including the deposites both by Government and by individuals,	- 8,500,000	
2. Bank notes in circulation,	- 4,500,000	
		<u>13,000,000</u>
Total Dr.	-	<u><u>\$23,000,000</u></u>

Balance, being the amount of undivided profits, commonly called the "contingent fund," and applicable to cover losses which may arise from bad debts or other contingencies, and to extra dividends, ----- \$510,000

It sufficiently appears from that general view, that the affairs of the Bank of the United States, considered as a moneyed institution, have been wisely and skilfully managed.

The advantages derived by Government from the bank, are nearly of the same nature with those obtained by individuals, who transact business with similar institutions, and may be reduced to the following heads:

1. *Safe keeping of the public moneys.* This applies not only to moneys already in the treasury, but also to those in the hands of the principal collectors, of the commissioners of the loans, and of several other officers, and affords one of the best securities against delinquencies.

2. Transmission of public moneys. As the collections will always, in various quarters of the extensive territory of the Union, either exceed or fall short of the expenditures in the same places, a perpetual transmission of money, or purchase of remittances at the risk and expense of the United States, would become necessary, in order to meet those demands; but this is done by the bank at its own risk and expense, for every place where one of its branches is established, which embraces all payments of any importance.

3. Collection of the revenue. The punctuality of payments introduced by the banking system, and the facilities afforded by the bank to the importers indebted for revenue bonds, are amongst the causes which have enabled the United States to collect with so great facility, and with so few losses, the large revenue derived from the impost.

4. Loans. Although the prosperity of past years has enabled Government, during the present administration, to meet all the public demands, without recurring to loans, the bank had, heretofore, been eminently useful in making the advances, which, under different circumstances, were necessary. There was a time when, exclusively of the six per cent, stock held by the institution as part of the original subscription, the loans obtained by Government from the bank, amounted to 6,200,000 dollars. And a similar disposition has been repeatedly evinced, whenever the aspect of public affairs has rendered it proper to ascertain whether new loans might, if wanted, be obtained.

The numerous banks now established, under the authority of the several States, might, it is true, afford considerable assistance to Government in its fiscal operations. There is none, however, which could effect the transmission of public moneys with the same facility, and to the same extent, as the Bank of the United States is enabled to do, through its several branches. The superior capital of that institution offers, also, a greater security against any possible losses, and greater resources in relation to loans. Nor is it eligible, that the General Government should, in respect to its own operations, be entirely dependent on institutions over which it has no control whatever. A national bank, deriving its charter from

the National Legislature, will, at all times, and under every emergency, feel stronger inducements, both from interest and from a sense of duty, to afford to the Union every assistance within its power.

The strongest objection against the renewal of the charter seems to arise from the great portion of the bank stock held by foreigners ---not on account of any influence it gives them over the institution, since they have no vote--- but of the high rate of interest payable by America to foreign countries, on the portion thus held. If the charter is not renewed, the principal of that portion, amounting to about 7,200,000 dollars, must, at once, be remitted abroad; but, if the charter is renewed, dividends, equal to an interest of about $8\frac{1}{2}$ per cent. a year, must be annually remitted in the same manner. The renewal of the charter will, in that respect, operate, in a national point of view, as a foreign loan, bearing an interest of $8\frac{1}{2}$ per cent, a year.

That inconvenience might, perhaps, be removed, by a modification in the charter, providing for the repayment of that portion of the principal by a new subscription to the same amount, in favor of citizens; but it does not, at all events, appear sufficient to outweigh the manifest public advantages derived from the renewal of a charter.

The conditions in favor of the public, on which this should be granted, are the next subject of consideration.

The nett profit annually derived by the stockholders, from a renewal of the charter, is equal to the difference between the annual dividends and the market rate of interest. Supposing this to continue at six per cent during the period granted by the extension of the charter, and the dividends to be on an average at the rate of $8\frac{1}{2}$ per cent., that profit will be $2\frac{1}{2}$ per cent. a year. If the charter be extended twenty years, the value of the privilege will be equal to an annuity of $2\frac{1}{2}$ per cent. on the capital, that is to say, of 250,000 dollars, for twenty years; and such annuity being payable semi-annually, is worth almost 2,890,000 dollars. This, however, would be much more than any bank would give for a charter, as it would leave it nothing but the right of dividing at the rate of six per cent, a year, which the stockholders have without a

charter. It is believed, that they would not be willing to give even half that sum for the extension: and that about 1,250,000 dollars may be considered as the maximum, which could be obtained, if it was thought eligible to sell the renewal of the charter for a fixed sum of money.

It is, however, presumed, that the decision on the conditions, which may be annexed to an extension of the charter, will be directed by considerations of a much greater importance than the payment of such sum into the treasury.

The object will, undoubtedly, be to give to the institution all the public utility of which it is susceptible, and to derive from it permanent and solid advantages, rather than mere temporary aid. Under these impressions, the following suggestions are respectfully submitted:

I. That the bank should pay interest to the United States, on the public deposits, whenever they shall exceed a certain sum, which might perhaps be fixed at about three millions of dollars.

II. That the bank should be bound, whenever required, to lend to the United States a sum not exceeding three-fifths of its capital, at a rate of interest not exceeding six per cent.; the amount of such loan or loans to be paid by the bank in instalments, not exceeding a certain sum, monthly, and to be reimbursed at the pleasure of Government.

III. That the capital stock of the bank should be increased to thirty millions of dollars, in the following manner, viz:

1. Five millions of dollars to be subscribed by citizens of the United States, under such regulations as would make an equitable apportionment amongst the several States and Territories.

2. Fifteen millions to be subscribed by such States as may desire it, and under such equitable apportionment amongst the several States as may be provided by law; and a branch to be established in each subscribing State, if applied for by the State.

3. The payments, either by individuals or States, to be either in specie or in public stock of the United States, at such rates as may be provided by law.

4. The subscribing States to pay their subscription in ten annual instalments, or sooner if it suits their convenience, but to receive dividends in proportion only to the amount of subscription actually paid: and their shares of bank stock not to be transferable.

IV. That some share should be given in the direction to the General and State Governments, the General Government appointing a few directors in the general direction, and the Government of each subscribing State appointing a few directors in the direction of the branch established in such State.

The result of that plan would be, 1st., that the United States, receiving an interest on the public deposits, might, without inconvenience, accumulate during years of peace and prosperity, a treasure sufficient to meet periods of war and calamity, and thereby avoid the necessity of adding, by increased taxes, to the distresses of such periods. Secondly, that they might rely on a loan of eighteen millions of dollars, on any sudden emergency. Thirdly, that the payment of the greater part of the proposed increase of capital, being made in ten annual instalments, that increase would be gradual, and not more rapid than may be required by the progressive state of the country. Fourthly, that the bank itself would form an additional bond of common interest and union amongst the several States.

All which is respectfully submitted.

Albert Gallatin.

Treasury Department, March 2d, 1809.

Dividends on United States' Bank Stock

No.		Rate per cent.	No.		Rate per cent.
1	July, 1792	4	18	January, 1801	6
2	January, 1793	4	19	July, "	4
3	July, "	3 $\frac{1}{2}$	20	January, 1802	4 $\frac{1}{2}$
4	January, 1794	3 $\frac{1}{2}$	21	July, "	4 $\frac{1}{2}$
5	July, "	4	22	January, 1803	4 $\frac{1}{2}$
6	January, 1795	4	23	July, "	4
7	July, "	4	24	January, 1804	4 $\frac{1}{2}$
8	January, 1796	4	25	July, "	4
9	July, "	4	26	January, 1805	4
10	January, 1797	4	27	July, "	4
11	July, "	4	28	January, 1806	4
12	January, 1798	5	29	July, "	4
13	July, "	4	30	January, 1807	6
14	January, 1799	4	31	July, "	4
15	July, "	4	32	January, 1808	4
16	January, 1800	4	33	July, "	4
17	July, "	4	34	January, 1809	4

10th Congress, 1st Session

House of Representatives,
December 4, 1809.

Mr. Nicholas moved the following resolution:

Resolved, That provision be made by law for a general national establishment of banks throughout the United States, and that the profits arising from the same, together with such surplusses of revenue as may accrue, be appropriated for the "general welfare," in the construction of public roads and canals, and the establishment of seminaries for education, throughout the United States.

The resolution was read, and ordered to lie on the table.

January 29, 1810.

On motion of Mr. Seybert,

Ordered, That the memorial of the stockholders of the Bank of the United States, presented on the 26th March, 1808, be referred to Mr. Montgomery, Mr. Dana, Mr. Bassett, Mr. Seaver, Mr. Seybert, Mr. Gold, and Mr. Taylor, to consider and report thereon to the House.

February 6, 1810.

The House proceeded to consider the resolution of Mr. Nicholson,* of the 4th December last, for the establishment of banks, and the application of their profits; whereupon, a division of the question on the said resolution was called for by Mr. Sawyer, to the word "States," inclusive, in the second line of the resolution.

A motion was made by Mr. Ross, that the first member contained within the same, to the word "States," inclusive, in the second line, be referred to a Committee of the Whole House;

Which was determined in the negative.

A motion was then made by Mr. Sawyer, that the said first member be referred to a select committee;

Which was also determined in the negative.

February 19, 1810.

Mr. Montgomery, from the committee appointed on the 29th ultimo, on the memorial of the stockholders of the Bank of the United States, made the following report thereon; which was read and referred to a Committee of the Whole House to-morrow.

REPORT OF THE COMMITTEE

The committee to whom was referred the petition of the stockholders of the Bank of the United States, beg leave to submit the following report:

That, in proceeding to the consideration of the said petition, your committee instructed their chairman to address a letter to the Secretary of the Treasury, requesting him to furnish such information or observations as he might think proper, in relation to the subject matter thereof, as connected with the financial and commercial interests of the United States. In reply to which, the Secretary, by his letter to the chairman, referred your committee to his former report on the

* In the *Journal of the House* for the day on which this resolution was first offered, it is attributed to Mr. Nicholas, who was a member from Virginia; it is here imputed to Mr. Nicholson, who was from New York.

said subject, made to the Senate of the United States, in obedience to the order of that House.

Your committee have been attended by agents of the petitioners, who, in addition to the matters contained in the petition, have suggested to your committee, that the object of the petitioners was to obtain the renewal of the charter in its present form; that, for this renewal, the bank was willing to make compensation, either by loans, at a rate of interest, or by a sum of money to be agreed upon, or by an increase of the capital stock, by a number of shares to be taken and subscribed for by the United States, to an amount adequate to the compensation to be agreed upon for such renewal.

These agents also suggested that they were fully authorized and empowered to offer and conclude the terms specifically connected with these propositions.

Your committee, not feeling themselves authorized to enter into such terms, and judging that the extent of those propositions would better apply to the details of a bill, than to the adoption of a principle to be first settled by the House, have, therefore, forbore to inquire into the extent of the propositions, and, without expressing an approbation or rejection of those offers, or giving an opinion as to the plan and reasoning of the Secretary of the Treasury, your committee, in order that the opinion of the House on this great national question, may be declared, previous to entering into the details connected with the subject, recommend the following resolution:

Resolved That it is proper to make provision for continuing the establishment of the Bank of the United States, with offices of discount and deposit, under the regulations necessary for the beneficial administration of the national finances, during such time and on such conditions, as may be defined by law.

February 22, 1810.

Mr. Love moved the following resolution:

Resolved, That it is expedient to inquire into the propriety of establishing a national bank.

The said resolution being read, was referred to the Committee of the Whole House, to whom is committed the report of a select committee on the memorial of the stockholders of the Bank of the United States.

March 22, 1810.

On motion of Mr. Love,

Ordered, That the Committee of the Whole House to which is committed a resolution submitted by him, on the 22d ultimo, for the establishment of a national bank, be discharged from the further consideration thereof, and that the same be referred to Mr. Love, Mr. Montgomery, Mr. Smilie, Mr. Quincy, Mr. Desha, Mr. Root, and Mr. Marion.

March 29, 1810.

On motion of Mr. Taylor,

Ordered, That the Committee of the Whole House to which is committed the report of a select committee, on the memorial of the stockholders of the Bank of the United States, be discharged from the consideration thereof, and that the said report be referred to Mr. Taylor, Mr. Mumford, Mr. Pitkin, Mr. Porter, Mr. Gray, Mr. Howard, and Mr. Cook, with instruction to report by bill.

April 2, 1810.

Mr. Love, from the committee appointed on the 22d ultimo, presented a bill to establish a national bank, which was read the first time.

On motion, the said bill was read the second time, and committed to Committee of the Whole House on Thursday next.

Mr. Love also made a written report in relation to the principles of the said bill, which was read, as follows:

The committee to whom was referred on the 22d of March last, a resolution relative to the establishment of a national bank, beg leave further to report:

That they have had the subject thereof under consideration, and in every view they have been able to take of it, perceive great difficulties to occur; nor is a majority of them by any means satisfied, that the bill they have agreed should be reported to the House, presents the best mode for the establishment of a national bank. They have been induced, however, to direct their chairman to report the same for the consideration of the House, without thereby intending to pledge their opinions in support of it, in preference to any other system or project which may be devised, on this very important subject.

The said bill is as follows:

A BILL TO ESTABLISH A NATIONAL BANK.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a bank shall be established in the city of Washington, in the District of Columbia, with branches thereof in the territories of the United States, and in the States, respectively, on application of the Legislatures thereof, in manner hereinafter mentioned, the capital of which shall not exceed **fifteen millions of dollars**, to be divided into shares of four hundred dollars each; and that, for the purpose of constituting three millions of the capital stock of said bank, the Secretary of the Treasury be, and he hereby is, authorised, to cause to be created certificates of stock, signed by the Register of the Treasury, in favor of any citizen of the United States, or the territories thereof, for the sum of three millions of dollars, or any less sum, to bear an interest of six per centum per annum, from the time of delivery to the purchasers; which debt shall be reimbursable at the pleasure of the United States, at any time after ten years, and not sooner; no certificate for which shall be issued for a less sum than four hundred dollars, and when for a larger sum, shall be to an amount, the principal of which shall be capable of simple divisions into sums of four hundred dollars; the same shall be receivable in subscriptions to the capital stock of the national bank aforesaid; and, for every four hundred dollars of the principal thereof, the subscriber, being a citizen of the United States or territories, shall be entitled to one share of the capital stock of the said bank, and may subscribe accordingly, in books to be opened for that purpose in the city of Washington, aforesaid, on the first day of January, in the year one thousand eight hundred and eleven, under the superintendence of three persons, who shall be appointed, by the President of the United States, commissioners for receiving subscriptions to the said bank, any two of whom may act, and receive subscriptions as aforesaid, until the fourth day of March, in the year one thousand eight hundred and eleven. The sale of the stock aforesaid, shall be made by the Secretary of the Treasury, in such portions, and at such times, as he shall find necessary or expedient, for the best price he can obtain,

either for money or the six per cent, funded debt of the United States, as the exigencies of the Government may render proper; and a credit or credits, for such newly created stock, shall be given to the purchaser thereof, on the books of the treasury, in like manner as for the present domestic funded debt, which said credits or stock shall thereafter be transferable, except as herein before mentioned, only on the books of the treasury of the United States, by the proprietor or proprietors of such stock, his, her, or their attorney, and may be so disposed of by the national bank company, their agent or attorney, to any person, or persons, whatsoever, or his, her, or their assigns, in manner aforesaid; and, for the reimbursement of the principal of the said stock and payment of the interest thereon quarter yearly at the treasury, the faith of the Government of the United States is hereby pledged. So much of the proceeds of the sales of the said stock as shall be received in money, shall be, and hereby is, appropriated towards the discharge of any of the current expenses of the Government, which the Secretary of the Treasury may deem most proper.

Sec. 2. *And be it further enacted*, That if the whole of the said sum of three millions of dollars shall not have been issued in stock, in manner aforesaid, on or before the first day of January, in the year one thousand eight hundred and eleven, and, also, in case none of the same shall have been then issued, then, for the whole, or any part thereof, (as the case may be,) subscriptions shall be opened, within sixty days thereafter, in such of the principal towns in the United States as the President of the United States shall direct, under the superintendence of such persons as he shall appoint, not less than three; and a majority of the said persons at the said places, respectively, shall be sufficient to perform the duties of their appointment. It shall be the duty of the said commissioners to advertise the time and place for receiving such subscriptions within the said towns, respectively, in some newspaper printed therein, for the space of twenty days, at least, before they shall open books to receive subscriptions as aforesaid; they shall keep the subscription open for the term of three days, and no longer, if the subscriptions for the amount of stock, directed by the President of the United States to be taken at such places, respectively, are completed in that time, but if they shall not be completed at the expiration of that time, they shall keep them open for the term of sixty days, unless the subscription is sooner completed; but if the subscription is completed before the expiration of three days from the time it is opened, then, and immediately after the same shall be so filled, no person, copartnership, or body politic, shall, during the remainder of the term aforesaid, be permitted to subscribe for more than five shares; and it shall be lawful for any citizen of the United States, copartnership, or body politic, within the United States, in person, or by attorney, to subscribe for any number of shares, not exceeding one hundred in one day, and all the subscriptions made, and shares obtained in consequence thereof, shall be deemed and held to be for the sole use and benefit of the person or persons, copartnership, or body politic, subscribing, or in whose behalf the subscriptions, respectively, shall be declared to be made at the time of making the same, any bargain, contract, promise, or agreement, to the contrary notwithstanding. And in case the amount of subscriptions, at any of the said places, shall exceed the number of shares appointed to be taken at such place, in the first three days, the excess, thus created, shall be reduced within the number of shares authorised to be subscribed at such place, or places, respectively, in manner following, that is to say: from the subscription, and subscriptions highest in amount, the commissioners shall subtract a share, or shares, until the same shall be made equal to the subscription, or subscriptions, next highest in amount; and, as often as the case shall require, they shall proceed to subtract a share, or shares, from the

subscription, or subscriptions, remaining, from time to time, highest in amount, until the aggregate of all the subscriptions be reduced to the number of shares authorised to be subscribed at the places which shall be appointed respectively; and if by and after the operation of the said subtraction, as often as the same shall be necessarily made, a greater number of shares may be allowed to one or more of the subscribers than to the rest, or if the number of shares shall eventually be greater than the number of shares authorised at such places, respectively, so that, at least one share cannot be allowed to each subscriber, then, and in either of the before mentioned cases, the commissioners for such place shall ascertain by lot, in whom the greater number of shares, or the right of subscribing for and retaining one share, (as the case may be) shall be vested, and the subscriber, in whose favor the lot may thereupon fall, shall be deemed, to all intents and purposes, the lawful subscriber, and subscribers, for such share, or shares, respectively; and the amount of the share, or shares, subscribed for, in manner aforesaid, shall be paid by the several and respective subscribers, in gold or silver coin, at its lawful value, one-fourth thereof at the time of subscribing, one-fourth in sixty days thereafter, one-fourth in one hundred and twenty days thereafter, and one-fourth in one hundred and eighty days from the time of the first election of directors, or at any time sooner, that such subscriber, or subscribers, may choose; the sums so received, respectively, shall be paid over by the said commissioners to the order of the Secretary of the Treasury. And in case any subscriber, as aforesaid, shall fail to pay any of the sums due from him, her, or them, according to the terms of subscription, he, she, or they, shall not be entitled to any dividend or dividends, or to vote on any such share, until the payment of the sum due thereon, with interest from the time such payment became due, shall be fully paid up and satisfied; and in case such failure shall continue for the space of six months, such share, or shares, and the sums which shall have been paid thereon, shall be wholly forfeited to the use of the said bank, and the same shall be sold under such regulations as the directors may establish. And the commissioners, aforesaid, shall, at the expiration of the three first days, and once in every ten days thereafter, as long as the subscription continues open, transmit to the Secretary of the Treasury a fair list of all the subscriptions, and the names of the subscribers making them.

Sec. 3. *And be it further enacted*, That, for the purpose of constituting five millions more of the capital stock of the said bank, the President of the United States shall, immediately after the passage of this act, notify the Governors of each State thereof, and the Legislatures of the States which shall enact laws authorising a subscription, in conformity to the provisions of this act, may at a time to be appointed by the President of the United States, (not exceeding six, or less than three months, from the time of such legislative act being notified to him,) cause to be subscribed at such place as such legislature shall direct within such State, and on behalf of such State, or any citizen of the United States or the territories thereof, to whom such State may assign or dispose of the right of subscribing, the following number of shares, to consist of four hundred dollars each, to wit: the State of New Hampshire, four hundred shares; the State of Massachusetts, fifteen hundred shares; the State of Connecticut, six hundred shares; Rhode Island, one hundred and fifty shares; Vermont, two hundred and fifty shares; the State of New York, fifteen hundred shares; New Jersey, six hundred shares; Pennsylvania, sixteen hundred shares; Delaware, one hundred and fifty shares; Maryland, eight hundred shares; Virginia, eighteen hundred shares; North Carolina, one thousand shares; South Carolina, six hundred shares; Georgia, five hundred shares; Kentucky, six hundred shares; Tennessee, three hundred shares; and Ohio, one hundred and fifty shares ---and the amount payable on the shares so respectively subscribed by the

States, or any of them, or any of their assignees, being citizens of the United States, shall be paid in gold or silver coin, at their current value; the first payment on each of which shares, shall be made at the time of subscribing, to the amount of forty dollars, into the hands of such persons, not less than three at each place of subscription, whom the States shall respectively authorize to receive the subscription, to the said capital stock, of the appointment of which commissioners, as soon as made, the proper authority of the States shall notify the Secretary of the Treasury, who shall immediately direct the said commissioners to place the same to the credit of the national bank company, in such bank or place of safe deposit as the Secretary of the Treasury shall appoint, which deposit shall be subject to his order for the use of said bank company, until the first election of directors of the said bank to be thereafter made at the Seat of Government of the United States, and the balance of the sum due on each share as aforesaid, shall be paid into the national bank at Washington, or any of the branches thereof, in gold or silver coin, at their value, at such times, and in such portions as the stockholders so subscribing shall choose: *Provided*, That the subscribers or stock-holders aforesaid, shall not be permitted to pay at any one time less than forty dollars on each share, and shall not be entitled to any greater portion of the dividends made by the said bank, than according, and in proportion to the sum actually paid on the shares upon which such dividend is claimed, but shall be entitled to such dividend, according to the portion paid on such share, when any dividend shall be declared after the expiration of six months from the time of any payment made, and not sooner. The mode of opening such subscriptions in the States, respectively, and carrying them into effect, except as is by this act otherwise directed, shall be according to the rules and provisions which such State so subscribing shall direct and establish: *Provided*, That any forfeitures which accrue of the rights of subscribers to such stock, shall be and enure to the use of the national bank company only.

Sec. 4. *And be it further enacted*, That such States as shall assent to the provisions of this act, and choose to avail themselves thereof, shall, on or before the first day of January, in the year one thousand eight hundred and twelve, notify by the proper authority, the President of the United States thereof, and shall also by any law passed authorising the subscriptions aforesaid, express the assent of the legislature thereof to the establishment of a branch of the national bank within such State, and at such place as the directors of the said bank at the Seat of the Government of the United States shall appoint: *Provided*, The capital assigned to such branch by the directors aforesaid, shall not exceed the amount of capital subscribed for within such State respectively: *And provided, also*, That, in case any of the States of the Union shall fail to comply with the terms of this act, or to notify the President of the United States, on or before the first day of January, one thousand eight hundred and twelve, of their assent to them, it shall be lawful for Congress to extend the time for such assent to be given, until the first day of January, in the year one thousand eight hundred and thirteen, and no longer; and in case the States of the Union, or any of them, do not assent to the terms of this act, at or before the last mentioned period, for the whole amount of the sum hereby proposed to be subscribed by the States, or for any part thereof, then subscriptions may be opened for a part, or the whole, (as the case may be,) by order of a general meeting of the stockholders of the said bank, in such manner, at such place, and at such time thereafter, as shall by the company of the said bank, or the president and directors thereof, at the Seat of Government, be appointed.

Sec. 5. *And be it further enacted*, That, for the purpose of constituting four millions more of the capital stock of the said bank, it shall be lawful for the

President of the United States, and he is hereby authorised, at any time within two years after the passing of this act, to cause a subscription to be made on behalf of the United States, to an amount not exceeding four millions of dollars, to be borrowed from the bank aforesaid, at any time after it goes into operation, or sooner, from any person or body corporate, at a rate of interest not exceeding _____ percent, and reimbursable in ten years, by equal annual instalments, or at any time sooner, or in any greater proportions that the Government may think fit; the first instalment to become due in one year from the time the said bank goes into operation, at which time the first payment borrowed as aforesaid, shall be made to the said bank, or such other person or body corporate from whom the same may be borrowed by the United States; and the sum so borrowed, with the interest quarter yearly thereon, shall be reimbursable and paid out of any moneys in the treasury, not otherwise appropriated.

Sec. 6. And be it further enacted. That, for the purpose of constituting three millions more of the capital stock of the national bank, it shall be lawful for the bank companies, or associations, which have been organized within the District of Colombia, or such of them as may choose, on or before the fourth day of March, in the year one thousand eight hundred and eleven, in pursuance of an order of the stockholders of the said banks, or either of said banks, at a general meeting, to notify the Secretary of the Treasury of their intention to subscribe their capital stock to the national bank, and if such company or their agent or agents shall, in sixty days thereafter, pay into the national bank, if it shall have commenced its operations, and if not, shall, in sixty days after the first election of directors at Washington, pay one-third of the amount of the stock subscribed, in specie, and the remaining two-thirds in good notes due in ninety days, or a shorter period, which notes shall be endorsed and guaranteed by the president of such bank on behalf of the company, then such sums so paid in, shall entitle those for whose use the same may be paid, to a share in the said bank for every four hundred dollars so paid; and it shall be lawful for the Secretary of the Treasury to make any further arrangement with the said companies, or associations, which, to him, shall seem right, and shall be agreed on between them, in order effectually to incorporate the funds of such bank company, or association, into the capital of the national bank, in the manner most convenient and profitable to the said companies and the national bank; and, in case the said sum of three millions of dollars, or any part thereof, shall not be subscribed by the said bank companies, or associations, in manner herein provided, and at the times herein mentioned, or, if no notice of an intention to do so is given by the time aforesaid, it shall be lawful for the President of the United States, at any time after the fourth of March, in the year one thousand eight hundred and twelve, with the assent of the stockholders of the national bank, previously expressed at a general meeting, to cause to be constituted the said three millions of dollars of the said stock, or so much thereof as shall not have been so subscribed by the said banks, or associations, on the same terms and conditions, (with such alterations only as may be necessary in point of form) as by the first and second sections of this act, subscriptions of stock to the national bank are provided and directed to be received.

Sec. 7. And be it further enacted, That the subscribers, their successors and assigns, being bodies corporate and politic, within the United States, or the territories thereof, or being citizens of the United States, or the territories thereof, shall be, and are hereby, erected and made a corporation and body politic, by the name and style of the president, directors and company of the national bank, and by that name shall be, and are hereby, made able and capable in law, to have, purchase, receive, possess, enjoy, and retain, to them and their successors, land,

rents, tenements, hereditaments, goods, chattels, and effects of what kind soever, to an amount not exceeding, in the whole, ten millions of dollars, exclusive of the amount of the capital stock aforesaid, and the same to sell, grant, alien, demise, or dispose of; to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place whatsoever; and also to make, have, and use a common seal, and the same to break, alter, and renew at their pleasure, and also to ordain, establish, and put in execution such by-laws and ordinances, as shall seem necessary and convenient (or the government of the said corporation, not being contrary to law or to this charter: and for the making whereof, general meetings may be called by the directors, in the manner hereinafter specified; and generally to do and execute all and singular the acts, matters, and things which to them it shall or may appertain to do, subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions in this act prescribed and declared.

Sec. 8. *And be it further enacted*, That, for the well ordering the affairs of the said bank, there shall be elected, annually, on the first Monday in January, at the Seat of Government, directors, who shall be citizens of the United States at the time of election, and shall be stockholders in the said bank, all of whom shall be elected by the stockholders of said bank; and, at the same time, the President of the United States shall appoint other persons, on behalf of the Government, as directors of said bank at Washington; and the Secretary of the Treasury, for the time being, shall be a director of said bank, ex-officio. At the same time, there shall be chosen, annually, in the different States, or such of them in which branches of the national bank shall be established, at the places where such branches are respectively established, by the stockholders, directors; and there shall be appointed, under the authority of such State, other directors, and by the Secretary of the Treasury, on behalf of the United States, other directors, and the said directors, so chosen and appointed, for the said bank and branches, respectively, shall, at the first meeting held by them, respectively, choose one of their number as a president of such bank, or branch bank; and the president and directors so chosen and appointed, shall serve by virtue thereof, from the time they shall be notified of their election, till the expiration of the succeeding first Monday in January, and from thence, until they shall be notified of a subsequent election having been made, and no longer. The first elections shall be held at the time and in the manner herein after directed: *Provided*. That in case it should at any time happen that an election of directors shall not be made, on any day when, pursuant to this act, it ought to have been made, the said corporation shall not, therefore, be deemed to be dissolved, but it shall be lawful on any other day, within one hundred days thereafter, to hold and make an election of directors, by order of the Secretary of the Treasury, who shall advertise the same in a public manner, at the place where such election is to take place, at least ten days before such election, at which election the same rules shall be observed as at other elections, and such further rules as the said corporation shall direct. And in case of the death, resignation, or absence from the United States, of a director in the bank aforesaid, or any of the branches thereof, his place shall be filled by a new choice, for the remainder of the term for which he was elected, by the vote of a majority of the directors at the place where such vacancy shall happen. Every person voting at any election of directors, shall, previous to giving his or her vote, make oath, or solemnly affirm, that he, or she, is a citizen of the United States; that the share or shares on which he or she offers to vote, is, or are, really and bona fide his or her own property, and not held in trust, or for the use, benefit, or emolument, of any other person or persons whatsoever; and when any person offers to vote as a

proxy, an affidavit to the same effect, of the person whom he represents, shall be sufficient, if made before a proper authority; and to take any such oath falsely, shall be perjury, and punishable as such on prosecution, by indictment or information.

Sec. 9. *And be it further enacted*, That, in case the certificates of stock authorized by the first section of this act to be created, shall have been sold, either in whole, or in part, at the time herein limited for the sale thereof, immediately thereafter, or as soon as the whole of said stock is sold (as the case may be) books shall be opened, under the direction of the Secretary of the Treasury, for the purpose of receiving subscriptions to the capital of the said bank, in the stock so sold, if any, and certificates of a share in the national bank, for each four hundred dollars of the principal of said public stock, shall be granted to the holder or holders thereof, who shall present the same for subscription, on or before the fourth day of March, in the year one thousand eight hundred and eleven; which public stock, so paid in, and constituting a part of the funds of the said bank, may, to the amount of one million of dollars thereof, if the Secretary of the Treasury shall deem it necessary, in order to expedite the commencement of the operations of the said bank, be sold for specie for the use of the said bank; and, as soon as the sum of one million of dollars shall be received by the Secretary of the Treasury, for the use of the said bank, in that, or in any of the ways directed by this act, for obtaining subscriptions thereto, notice thereof shall be given by the Secretary of the Treasury, in some newspaper printed in the city of Washington, and also in some newspaper printed at the Seat of Government of each State, that such sum has been received, and shall also notify a time, not less than fifty days from the time of such publication, for making the first election and appointment of directors for the said bank at Washington: *Provided*, That it shall not be at an earlier period than the fourth day of March, in the year one thousand eight hundred and eleven, and an election for the directors for the said Bank of Washington shall accordingly be made. And the directors so appointed and elected at Washington, in pursuance of the directions of this act, shall be capable of serving as such, until the next election shall be made under the provisions of this act; and the said directors shall forthwith commence the operations of the said bank, and provide for the establishment of such branches thereof, as shall be authorized by any of the States of the Union, in pursuance of the provisions of this act; and in case the bank companies, or associations, in the District of Columbia, shall subscribe according to the terms of this act, shall establish a branch of the national bank in the town of Alexandria, and another in Georgetown, and shall appoint, within twenty days from the time of the terms of subscription being complied with by the said bank companies, or either of them, the time and place when an election shall be held by the stockholders for ____ directors of such branch banks, respectively, within the District of Columbia, as shall be established by them, ____ in addition, to whom shall be appointed by the Secretary of the Treasury, who, immediately after the first election, and at every election and appointment thereafter, shall choose one of their own body as president; and successive elections and appointments shall be held and made in the same manner, and under the same regulations, as near as may be, for the said branches, as in the State branches they are directed to be held, the Secretary of the Treasury performing all the duties, which the States respectively may perform in such elections, and regulating all other matters and things respecting the said branches, as may be agreed on by him with the said companies or associations: *Provided*, That the bank company, or association, organized in the city of Washington, if they shall choose to incorporate themselves with the national bank, shall be incorporated into the principal bank to be established there; and the Secretary of the treasury may, moreover, provide for the

continuance of the operation of the said banks, according to their present establishments, until their funds shall, under the provisions of this act, be actually transferred to the national bank, after which time, such associations and companies shall be considered as dissolved.

Sec. 10. *And be it further enacted*, That the directors of the bank at Washington, shall allot to the said bank and the branches thereof, the portion of capital which each shall, from time to time, be justly entitled to, subject to the restrictions in this act provided, and may establish offices of discount and deposite, as branches of the national bank, in any of the territories of the United States, (except the District of Columbia, in which branches shall only be established in manner aforesaid,) and shall regulate the amount of capital to be placed in any of the said branches; and in the said territories, (except that of Columbia,) where branches are by them established, shall appoint nine directors for each annually, and regulate the time and other things relative to their service, and shall appoint a cashier and principal clerk of said territorial branches, when by them established; but the directors of the said branch, or branches, of discount and deposite, respectively, shall appoint all other officers and servants, of such branch bank, or banks. The directors of the said bank, at Washington, shall appoint such officers, clerks, and servants, as shall be necessary to execute the business of the said bank, and the branches of the said bank, in the several States, and in the District of Columbia, shall appoint their officers, clerks, and servants, under them, for the purposes of executing the necessary business of their banks respectively; but the salaries of such officers, clerks, and servants, and of the compensation to be allowed to the presidents of the different banks, shall be fixed on, and increased, or diminished, by the president and directors of the principal bank: *Provided*, Such salaries and compensations, shall not be determined on, except when the Secretary of the Treasury shall be present, and shall give his vote on the subject; and the directors of the bank at Washington, shall do every other matter and thing, not contrary to law, or the provisions of this act, which may be necessary for the establishment and regulation of the said banks of discount and deposite, in the said Territories, or States.

Sec. 11. *And be it further enacted*, That the following rules, restrictions, limitations, and provisions, shall form, and be fundamental articles of the constitution of said corporation, viz:

1. The number of votes to which each stockholder shall be entitled, except the United States, and the States respectively, shall be according to the number of shares he shall hold, in the proportions following, that is to say: For one share, and not more than two shares, one vote: for every two shares above two, and not exceeding ten, one vote: for every four share above ten, and not exceeding thirty, one vote: for every six shares above thirty, and not exceeding sixty, one vote: for every eight shares above sixty, and not exceeding one hundred, one vote: and for every ten shares above one hundred, one vote. But no person, co-partnership, or body politic, shall be entitled to a greater number than thirty votes. And after the first election, no share, or shares, shall confer a right of suffrage, which shall not have been holden three calendar months previous to the day of election. None but citizens of the United States, shall vote at any election, by proxy, or in person, nor shall be a director of the national bank, or any of its branches.

2. Not more than three-fourths of the directors in office, chosen by the stockholders, the president excepted, shall be eligible, or capable of appointment for the next succeeding year. But, the director who shall be president at the time of an election, may always be re-elected, or re-appointed, as the case may be.

3. None but a stockholder, being the owner of two shares, and being a citizen of the United States, and resident therein, shall be capable of being chosen or appointed as a director.

4. No director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders, at a general meeting. The stockholders shall make such compensation to the president of the principal bank at Washington, for his extraordinary attendance at the bank, as shall appear to them reasonable.

5. Not less than a majority of directors shall constitute a board for the transaction of business, of whom the president shall always be one. except in case of sickness, or necessary absence; in which case, his place may be supplied by any other director, whom he, by writing, under his hand, shall nominated for the purpose.

6. A number of stockholders, not less than fifty, who, together, shall be proprietors of two hundred shares, or upwards, shall have power, at any time, to call a general meeting of the stockholders, for purposes relative to the institution, giving at least, ten weeks' notice, in two public gazettes, of the place where the bank is kept, and specifying, in such notice, the object, or objects, of such meeting. Every cashier, or treasurer, before he enters upon the duties of his office, shall be required to give bond, with two or more sureties, to the satisfaction: of the directors, in a sum not less than fifty thousand dollars, with condition for his good behavior.

8. The lands, tenements, and hereditaments, which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its immediate accommodation, in relation to the convenient transaction of its business, and such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted, in the course of its dealings, or purchased, at sales upon judgments, which shall have been obtained for such debts.

9. The total amount of the debts, which the said corporation shall at any time owe, whether by bond, bill, note, or other contract, shall not exceed the sum of fifteen million of doll are, over and above the moneys then actually deposited in the bank, for safe keeping, unless the contracting of any greater debt, shall have been previously authorised by a law of the United States. And it is hereby enacted, that it shall not be lawful for the said bank to contract any debt with the United States, to a greater amount than thirty millions of dollars, or with any State, than twice the amount of capital subscribed, in such State: and, in case of excess, the directors, under whose administration it shall happen, shall be liable for the same, in their natural and private capacities, and an action of debt may, in such case, be brought against them, or any of them, their, or any of their heirs, executors, or administrators, in any court of record of the United States, or either of them, by any creditor, or creditors, of the said corporation, and may be prosecuted to judgment, and execution, any condition, covenant, or agreement, to the contrary notwithstanding. But, this shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of the same, from being also liable for, and chargeable with, the said excess. Such of the said directors, who may have been absent, when the said excess was contracted, or created, or who may have dissented from the resolution, or act, whereby the same was so contracted, or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the President of the United States, and to the stockholders, at a general meeting, which they shall have power to call for that purpose.

10. The said corporation, shall not, directly or indirectly, deal, or trade, in any thing except bills of exchange, gold or silver bullion, or in the sale of goods, really and truly pledged for money lent, and not redeemed in due time, or of goods which shall be the produce of its lands. Neither shall the said corporation take more than at the rate of six per centum per annum, for, or upon its loans, or discounts.

11. No loan shall be made by the said corporation, for the use or on account of the Government of the United States, to an amount exceeding one hundred thousand dollars, or of any particular State, to an amount exceeding fifty thousand dollars, or of any foreign prince or State, unless previously authorized by a law of the United States.

12. The stock of the said corporation shall be assignable and transferable according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same; except that no stock shall be assignable or transferable either in law or equity, to any person or persons, who are not citizens of the United States, or a body politic or corporate within the same.

13. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and of his, her, or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon, in his, her, or their own name or names. And bills or notes, which may be issued by order of the said corporation, signed by the president and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her, or their order, or to bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the same, in the like manner, and with the like force and effect, as upon any private person or persons, if issued by him or them, in his, her, or their private or natural capacity or capacities; and shall be assignable and negotiable, in like manner, as if they were so issued by such private person or persons: That is to say, those which shall be payable to any person or persons, his, her, or their order, shall be assignable by endorsement, in like manner, and with the like effect, as foreign bills of exchange now are; and those which are payable to bearer shall be negotiable and assignable by delivery only.

14. Half yearly dividends shall be made of so much of the profits of the bank, as shall appear to the directors advisable; and once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts which shall have remained unpaid after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profit, if any, after deducting losses and dividends. The directors of the bank, and its several branches, shall keep fair and regular entries of all their proceedings, in a book to be provided for that purpose, and on any question, where two directors shall require it, the yeas and nays of the directors voting, shall be duly inserted on their minutes, and be subject to inspection at a general meeting of the stockholders. No cashier of any of the said banks shall be allowed to carry on any other business, or to deal in any manner, in any of the public stock or funds, under the penalty of ten thousand dollars for every such offence, to be recovered in any court of the United States, within whose jurisdiction it shall happen, by indictment or information, one half to the use of the informer, and the other half to the use of the United States, and shall, on proof, to

the satisfaction of the directors, of any such offence, be immediately dismissed from office.

Sec. 12. *And be it further enacted*, That there shall be appointed, as soon as the said bank commences its operations, by the President of the United States, a superintendent of the said bank and its branches, whose duty it shall be, to require and receive from the directors of the said bank, a statement, at least once a month, of the amount and nature of the capital stock of said corporation; a list of all the stockholders of the said bank; a statement of the debts due to the same, and of the moneys deposited therein; of the notes in circulation and of the cash on hand, and shall have a right to inspect such general accounts, or require copies thereof from the books of the said corporation, as shall relate to such statements, but shall not have the right to inspect the account of any private person with the bank. And the said superintendent shall, at all times, when required, furnish to Congress or to the Secretary of the Treasury, any information in his power or possession, relative to the said bank or its branches. He shall, moreover, when he deems it proper, furnish any information to the Secretary of the Treasury on the subject of said banks, and shall give his opinion in writing or in person, at a meeting of the directors of any of the said banks, on any subject touching the affairs thereof, which he may deem proper, but shall not, in any case whatever, have a right to vote. He shall keep an office and reside at the Seat of Government, and be entitled to such compensation for his services as the president and directors of the bank at Washington shall think proper to allow, and shall hold his office during the pleasure of the President of the United States.

Sec. 13. *And be it further enacted*. That the bills or notes of the said corporation, originally made payable, or which shall have become payable on demand, shall be demandable during the continuance of this act, in gold or silver coin, at their current value, and shall be receivable in all payments to the United States.

Sec. 14. *And be it further enacted*, That this charter, and the corporation hereby created, shall continue until the year one thousand eight hundred and forty, unless by the consent of the stockholders, at a general meeting, and a future law of Congress, the capital stock of the said bank should be increased to thirty millions of dollars, giving to the States respectively, and to the United States, the same proportions, and providing, in every respect, similar regulations, so far as circumstances may admit, for the increase aforesaid, as are provided by this act for the establishment of the national bank; and, in like manner, if the capital should be so increased, the term of continuance of the charter of the said corporation may be extended to the year one thousand eight hundred and fifty.¹

April 4. 1810.

A motion was made by Mr. Love, that the House do come to the following resolutions:

Resolved, That the Secretary of the Treasury be requested to furnish this House with the names and titles of the stockholders of the Bank of the United States, if any document in his office will afford that information, and if not, to endeavor to obtain that information from the bank aforesaid, and lay it before this House as soon as possible.

That the Secretary of the Treasury be requested to furnish this House, with the number of shares voted on at the last election of directors, and the names of those voting, if to be obtained.

That he be requested to state to this House, by what information he was enabled, in his report of March, 1809, made to the Senate of the United States, to fix the average of dividends of said bank, at eight three-eighths, precisely eight thirteen-thirty-fourths per cent. per annum, and also state the amount of public stock or other public debt, held by the said bank company on each first day of January, since its operations commenced.

Resolved, That the Secretary of the Treasury be requested to inform this House what is the amount of capital retained in Philadelphia by the Bank of the United States, and what amount thereof, distributed to the branches of that bank, respectively; what have been the average amounts of deposits of public money, in each of those banks, in any preceding year, or for the year 1808, if as practicable to obtain it as any other; and whether the sum of 800,000 dollars, stated in his said report, to be due from the State banks to the United States Bank Company, was due on account of deposits of public money, or not.

A motion was made by Mr. Quincy, to amend the first resolution thereof, by inserting the word "foreign" before the word "stockholders."

The said resolutions were read and ordered to lie on the table.

April 7, 1810.

Mr. Taylor, from the committee to whom was referred on the 29th ultimo, the report of a select committee on the memorial of the stockholders of the Bank of the United States, presented a bill continuing in force for a term of twenty years, the act entitled "An act to incorporate the subscribers to the Bank of the United States," on the terms and conditions therein named, which was received and read the first time.

On motion, the said bill was read the second time, and committed to a Committee of the Whole House on Monday next.

The said bill is as follows:

A bill continuing in force, for a term of twenty years, the act, entitled "An act to incorporate the subscribers to the Bank of the United States," on the terms and conditions therein mentioned.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled. That the act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed the twenty-fifth day of February, in the year of our Lord seventeen hundred and ninety-one, subject to the provisions and conditions in this act to be made, be, and the same is hereby continued in force, for and during the further term of twenty years, from and after the fourth day of March next: *Provided*, That the President and Directors of the said Bank of the United States, shall, on or before the thirty-first day of December next, pay into the Treasury of the United States one million two hundred and fifty thousand dollars, as the price and equivalent for the renewal and continuance of their charter as aforesaid; and the better to enable the said President and Directors of the said bank to pay the said sum of money, the said President and Directors of the Bank of the United States shall be, and they are hereby authorised to add to the capital stock of said bank two thousand five hundred shares, and to sell and dispose of the same, at such time, and in such manner, and at such price as they may think proper, and for the most

advantage for the interest of their said company: *Provided, also,* That the said President and Directors of the said bank shall, at all times, from and after the passage of this act, and during the continuance of the same, be bound and obliged to make a loan or loans to the United States, if required and authorised by law, of any sum or sums of money, not exceeding in the whole, at any one time, five millions of dollars, and at a rate of interest not exceeding six per centum per year: *Provided,* That it shall be the duty of the Secretary of the Treasury of the United States to make his application in writing, to the President and Directors of said bank, for such loan or loans, at least three calendar months previous to the time when such loan or loans shall be required; and that the said President and Directors of the said bank, shall not be required to make a loan of more than two million five hundred thousand dollars during the present year, nor more than the last mentioned sum during any other year: *Provided, also,* That the President and Directors of the said bank, shall, from and after the fourth day of March, eighteen hundred and eleven, pay to the United States an interest at the rate of three per centum per year on all sums of money above the sum of three millions of dollars, which shall accumulate to the credit of the Treasurer of the United States in the said bank, or in any of the branches of said bank, and which shall remain there for one whole year: *Provided,* That it shall be the duty of the Secretary of the Treasury of the United States, from time to time, to give notice in writing to the President and Directors of the said bank, at least sixty days before the term or time at which said interest, to be paid as aforesaid, shall be considered to commence and begin to accrue; which notice in writing, shall specify the precise amount of the deposit, so to remain for one whole year as aforesaid: *Provided, also,* That the United States shall be authorised, at any time during the continuance of this act, to increase the capital stock of said bank in such manner as may hereafter be prescribed by law, and for which the United States shall become the subscriber and owner, to an amount not exceeding in the whole __ shares and not exceeding in any one year __ shares: *Provided,* That the shares thus to be added and subscribed for, on behalf

of the United States, shall not be sold by the United States at a price less than for --- each share: *And provided, also,* That nothing in this act contained, nor in the act intended to be continued in force by this act, shall be construed to restrict or prevent the United States from incorporating any bank or banks in the District of Columbia: *Provided,* That any bank to be incorporated by the United States in the District of Columbia, shall be restricted from extending any branch thereof beyond and without the limits of the said territory.

Sec. 2. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the President and Directors of the said bank, on or before the day of next, to signify to the President of the United States, their acceptance on behalf of the Bank of the United States, of the terms and conditions in this act contained, and if they shall fail to do so, on or before the day above mentioned, that then this act shall cease to be in force.

April 13, 1810.

The House resolved itself into a Committee of the Whole on the said bill; and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Macon reported, that the committee had, according to order, had the said bill under consideration, made some progress therein, and directed him to ask leave to sit again.

And on the question, Shall the Committee have leave to sit again on the said bill ? It was determined in the negative.

April 20, 1810.

The House proceeded to consider the said bill.

A motion was made by Mr. Swoope, to amend the said bill, by striking out, in the ninth line and first section, from the word "next" to the word "share," in the sixty-second line, for the purpose of inserting the following:

Provided. That on the 4th day of March, 1811, the President and Directors of the said Bank of the United States,

shall be, and they are hereby, authorized to add to the capital stock of the said bank, twelve thousand five hundred shares, and for which the United States shall become the subscriber and owner: *Provided, also*, That the President and Directors of the said bank shall receive in payment therefor, the sum of five millions of dollars in stock of the United States, bearing an interest of three per cent, per annum, payable quarter yearly, and redeemable at the pleasure of the Government, which stock as aforesaid, the Secretary of the Treasury is hereby authorized to issue and pay over to the President and Directors, on receiving from them a transfer, in behalf of the United States, of the twelve thousand five hundred shares as aforesaid: *Provided, also*, That the United States shall be authorized at any time after the 4th of March, 1821, to increase the capital stock of the said bank in such manner as may be hereafter prescribed by law, and for which the United States shall become the subscriber and owner, to an amount not exceeding twelve thousand five hundred shares: *Provided, nevertheless*, That such addition to the capital shall not be made at the time aforesaid, unless the average dividends for the three years preceding that period, shall have amounted to eight per centum, on the capital stock of said bank; and after the said fourth day of March, 1811, the Secretary of the Treasury shall be a director of the said bank *ex officio*.

And, after debate thereon, the House adjourned.

April 21, 1810.

The House resumed the consideration of the motion made by Mr. Swoope yesterday.

A division of the question on the said amendment was called for, when a motion was made by Mr. Love, that the said bill be postponed indefinitely, which was determined in the negative. Yeas 46, nays 67.

The question was then taken on the first member of the motion of Mr. Swoope, to wit: to strike out, in the 9th line, first section, from the word "next" to the word "share," in the 62d line, and determined in the negative.

The second member of the said motion failed, of course.

A motion was then made by Mr. Love, to amend the said bill, by striking out the following words contained in the first section thereof, beginning with the following words: "That the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,' passed the 25th day of February, in the year of our Lord 1791, subject to the provisions and conditions in this act to be made, be, and the same is hereby, continued in force," &c. and terminating with the following: "*Provided*, That any bank to be incorporated by the United States in the District of Columbia, shall be restricted from extending any branch thereof beyond and without the limits of the said territory," for the purpose of inserting the following:

"In case no law shall been acted by Congress before the fourth day of March, one thousand eight hundred and eleven, authorizing the further continuation of the charter of the company of the United States Bank, the said company shall, notwithstanding, be authorized, and they hereby, are authorized, to continue for the space of two years from that date, their loans which shall, on that day be in existence, by renewing the same or otherwise, in the manner now practised in the said bank and the branches thereof; to sue and be sued, and do all other matters and things which the said company is now able to do. *Provided*, That the said company shall not issue or alter any bank note signed by the President of the said bank, or in any other manner create or alter, after the said fourth day of March, any note or other currency under the authority of the said company or directors, or any of them; and that, after that date, the notes which may be in circulation shall not be receivable in payments due to the United States, unless made so by a law hereafter enacted."

A division of the question on the said amendment was called for, and on the question so to strike out, it was determined in the negative. Yeas 34, nays 73.

The second member of the said motion failed of course.

The bill was amended on motion of Mr. Taylor, at the Clerk's table.

A motion was then made by Mr. Troup, to amend the bill, by striking out the first proviso in the first section of the bill, which was determined in the negative. Yeas 35, nays 75.

A motion was then made by Mr. Taylor, to extend the term to twenty-five years, and debate arising thereon, the House adjourned.

April 23, 1810.

Mr. Taylor called for the consideration of the aforesaid bill, when, on motion of Mr. Rhea,

Ordered, That the consideration of the said bill be postponed till to-morrow.

Note.--- No further proceedings were had upon this bill.

11th Congress, 3d Session

December 18, 1810.

Mr. Findley presented a petition of the stockholders of the Bank of the United States, praying the renewal of their charter of incorporation, which was read and ordered to be referred to a select committee; and Mr. Burwell, Mr. Findley, Mr. Southard, Mr. Mitchel, Mr. Franklin, Mr. Butler, Mr. J.C. Chamberlain, Mr. W. Chamberlain, Mr. Mosely, Mr. N.R. Moore, Mr. Miller, Mr. Smelt, Mr. Johnson, Mr. Morrow, Mr. Jackson, Mr. Garnett, and Mr. Poindexter, were appointed the said committee.

December 19, 1810.

Mr. Love offered the following resolution:

Resolved, That the Secretary of the Treasury be directed to lay before this House, information, first, of the amount of debts due from individuals and bodies corporate to the Bank of the United States, distinguishing the amount due by bond, mortgage, or other specialty, from that payable by notes, bills of exchange, or other security not under seal, to the said bank and its branches, and what portion of said debts are considered as standing accommodation to the customers of said bank and its branches: Second, of the amount of notes of said bank and its branches, now in circulation: Thirdly, whether the revenue of the United States, or what portions of it are ordered to be deposited in the said bank and its branches; whether any portion of it is ordered to be deposited in other, and if so, what other banks; and what will be the probable amount of deposits in favor of the United States in any of the said banks or their branches, and which of them on the first day of March, in the year 1811.

The said resolution was read and ordered to lie on the table.

January 3, 1811.

The House, on motion of Mr. Love, proceeded to consider the preceding resolution, which, being read, was agreed to by the House.

And on the 10th January, the Secretary of the Treasury communicated to the House, the following answer to this call:

The Secretary of the Treasury, in obedience to a resolution of the House of Representatives, of the 3d instant, respectfully reports:

That the annexed statements, marked A, B, and C,* contain all the information which the returns made to the treasury afford, on the subjects embraced by the resolution aforesaid.

It appears by the statement A, that the debts due from individuals and bodies corporate, to the Bank of the United States, consisted, at the respective dates of the several returns, of the following items, viz:

Bills and notes discounted, and bonds due by individuals, \$15,126,187.04

Balance due by other banks in account, after deducting the sums due by the Bank of the United States and its branches, to several other banks,
1,318,024.29

Bank notes of other banks, on hand, 511,909.06

Treasury drafts not yet collected, 31,466.01

Overdrawn, 32,579.07

Converted six per cent, stock, 23,066.23
17,043,231.70

To which, adding the loan to the United States, 2,750,000.00

Makes, for the aggregate of debts due to the bank, \$19,793,231.70

In a few instances, which are noted in the statement A, the amount due on bonds, and also that of notes discounted, which have been put in suit, is distinctly stated in the returns made to the treasury; but the aggregate alone is given in most of them, and they do not, in any instance, distinguish the amount "considered as standing accommodation to the customers of the bank and its branches." A recurrence to the 16th regulation of the 7th section of the act incorporating the bank, will show, that the only statements that can be required

* For the said statements, see *American State Papers*, published by Gales & Seaton, vol. 2 of Finance, pages 462 and 463.

by the officer at the head of the treasury, are those of the amount of the capital stock of the corporation, of the debts due to the same, of the moneys deposited therein, of the notes in circulation, and of the cash in hand; and that he has no right to ask for the account of any private individuals, or for any other than the above mentioned general statements. Nor has the Secretary of the Treasury any knowledge whatever of the accounts and operations of the bank, but what is derived from the official statements transmitted to him in conformity with the above mentioned provision in the charter.

The statement B shows the amount of notes of the said bank and its branches, in circulation at the date of the latest returns, to have been \$5,157,378.83.

The Treasurer's accounts, annually laid before Congress, show correctly the amount of public moneys deposited in the various banks, on the last day of each quarter. But that amount is daily fluctuating, and cannot be stated with perfect precision, except on the quarterly statements of those accounts. The Treasurer furnishes, however, the Secretary of the Treasury with a weekly estimate of the cash on hand, and where deposited, as taken from the latest received returns. A copy of that furnished on the 7th instant, marked C, is herewith transmitted, together with remarks, showing what portions of the revenue are generally deposited in the Bank of the United States and its branches, and what portions are deposited in other banks.

It is probable that the amount of specie in the treasury will, on the first day of March next, exceed 2,500.000 dollars, and that the proportion deposited in the banks, other than that of the United States and its branches, will not materially vary from what it is at present. But it is impracticable to form any correct estimate of the probable amount at that time in each place, respectively, since that is always regulated by the want of funds in each place, for the current service, according to which the public moneys are daily transferred by drafts, from place to place, as the occasion may require.

All which is respectfully submitted, Albert Gallatin.
Treasury Department, January 9, 1811.

January 4, 1811.

Mr. Burwell, from the committee appointed on the 18th ultimo, presented a bill continuing, for a further time, the charter of the Bank of the United States, which was read a first and second time, and committed to a Committee of the Whole House, on Monday next, as follows:

A bill continuing in force for the term of ____ the act, entitled "An act to incorporate the subscribers to the Bank of the United States," on the terms and conditions therein mentioned.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed the 25th day of February, in the year of our Lord 1791, be, and the same is hereby, continued in force, subject to the provisions and conditions in this act specified, for, and during, the further term of ____ years, from and after the 4th day of March, next.

Sec. 2. Provided, however, and be it further enacted, That the president and directors of the said Bank of the United States, shall, on or before the ____ day of ____ next, pay into the Treasury of the United States, for the use thereof, one million two hundred and fifty thousand dollars.

Sec. 3. And be it further enacted, That the president and directors of the said bank, shall, at all times, from and after the passing of this act, and during the continuance of the same, be holden and bound to make a loan or loans to the United States, if required and authorized by law, of any sum or sums of money, not exceeding in the whole, at any one time, five millions of dollars, reimbursable at the pleasure of the United States, and at a rate of interest not exceeding six per centum per year: Provided, That it shall be the duty of the Secretary of the Treasury to make his application in writing to the president and directors of the said bank, for such loan or loans, at least three calendar months prior to the time when such loan or loans shall be required: Provided, also, That the sum of two millions and seven hundred and fifty thousand dollars, borrowed during the year 1810, shall be considered part thereof, and that no greater amount shall be required, in any quarter of a year, than one millions of dollars. And provided, further, That all such loans shall be reimbursable at or before the expiration of the said term of ____ years, unless it shall be otherwise agreed between the said corporation and the United States.

Sec. 4. And be it further enacted, That if the said president and directors shall, on any occasion, fail to furnish any loan or loans, to be required by the United States, in the manner herein before enacted, their corporation shall forthwith be dissolved, and the powers thereof shall

cease and determine, any thing in this act, or in the act hereby continued in force, to the contrary thereof, in anywise notwithstanding.

Sec. 5. *And be it further enacted*, That the directors, chosen by the stockholders of the said corporation, on the first Monday of January, in the present year, and the president, chosen by the directors at the first meeting after such election, shall be capable of serving, by virtue of such elections, until the first Monday in January, 1812.

Sec. 6. *And be it further enacted*, That the act, entitled "An act to punish frauds committed on the Bank of the United States," passed the 24th day of February, 1807, be, and the same is hereby, continued in force, during the continuance of the said corporation; and the same shall at all times hereafter, and in all respects, be deemed and taken to apply to the said corporation, in the same manner that it has been deemed and taken to apply to the same heretofore.

Sec. 7. *And be it further enacted*, That the president and directors of the said bank, shall, after the 4th day of March next, pay to the United States an interest, at the rate of three per cent. per year, on all sums of money above the sum of ___ millions of dollars, which shall accumulate to the credit of the Treasurer of the United States in said bank, or the branches of the same, and which shall remain there for ___: *Provided*, It shall be the duty of the Secretary of the Treasury, from time to time, to give notice, in writing, to the president and directors, at least days before the term, or time at which the said interest shall begin to accrue and be computed; which notice in writing, shall specify the exact amount of the deposite so to remain for the whole year as aforesaid.

Sec. 8. *And be it further enacted*, That the United States shall be authorized, at any time during the continuance of this act, to increase the capital stock of the said corporation, in manner as may be hereafter prescribed by law, and for which the United States shall be the subscriber and owner, to an amount not exceeding in the whole ___ shares, and not exceeding in any one year shares: *Provided*, That during the time the United States shall so hold stock in the said corporation, they shall have a right to appoint, in such manner as shall be hereafter declared by law, a number not exceeding ___ of the directors: *And provided, also*, That the shares thus to be subscribed and added, by and on behalf of the United States, shall not be sold at a price less than ___ per centum advance on each share.

Sec. 9. *And be it further enacted*, That the twelfth section of the before mentioned act, entitled "An act to incorporate the subscribers to the Bank of the United States," passed March 2d, 1791, be, and the same is hereby repealed.

Sec. 10. *And be it further enacted*, That it shall be the duty of the president and directors of the said bank, on or before the day of next, to signify to the President of the United States, in writing, their acceptance on behalf of the said corporation, of the terms and conditions in this act

contained; and if they shall fail to do so, on or before the day above mentioned, then this act shall cease to be in force.

Wednesday, January 16, 1811.

Mr. Wright offered the following resolution:

Resolved, That the Secretary of the Treasury be directed to lay before Congress, a list of the directors of the Bank of the United States, and of the several branches, and a statement of the stock held by foreigners, and in what countries; and of the stock held by citizens, and in what States and Territories.

On suggestion of Mr. Eppes, the resolution was modified by adding to the information required, a statement of the specie deposited in the Bank of the United States and its branches, in the States and Territories, distinguishing between the deposits of the United States, and those of individuals.

As amended, the resolution was agreed to.

The House then resolved itself into a Committee of the Whole, on the bill to renew the charter of the Bank of the United States.

Mr. Burwell moved to strike out the first section of the bill.

He supported his motion in a speech of great length, in which he denied the constitutionality and expediency of the bill, as follows:

MR. BURWELL². I have made you this motion, sir, because it allows the greatest latitude of discussion upon the important points which are preliminary to the examination of the details. It tries the principle of the bill, and may save much tedious and useless labor. Should a majority decide in favor of the Bank of the United States, as an honest man, I will aid in forming a system best adapted to the state of the country, and most subservient to the purposes of such an institution. The gentleman from Connecticut [Mr. Mosely] has done justice to my conduct, and the fairness with which the subject has been treated. I have been anxious to present the question fairly, not from any doubt or indecision as to the course I should

pursue, but from its magnitude, and the sensibility it has excited. It will be recollected by the committee, when the gentleman from Philadelphia presented the memorial, upon which the Secretary of the Treasury founded his report, on that, as on all subsequent occasions, my opposition was manifested; and I will add, that the particular intention which my duty has compelled me to bestow on the bank, has confirmed most strongly former impressions.

The remarks I shall make, are intended to show that Congress possesses no power to incorporate a bank; to show its effect on the Government, and to satisfy the committee that the exercise of the power, even if possessed, is inexpedient. While, sir, I feel the most ardent desire to consult the convenience of the Government, and promote the prosperity of the community in general, I have not lost sight of the limits within which I am restrained by the Constitution of the United States, and considerations of sound policy. It is my most deliberate conviction that the Constitution of the country gives no authority to Congress to incorporate a bank, and endow the stockholders with chartered immunities, and, even if its dissolution should produce ruin to the merchants, and, what is of equal importance, embarrassment to the Government, they would not be paramount to the sacred obligation of supporting the Constitution, though I am persuaded the dreadful evils which have been predicted from the annihilation of the bank, will soon vanish, and that no material shock will be produced by that cause.

The construction which the Constitution has received by the various persons who have, at different times, administered it, has been rigid or liberal, according to their confidence in the General or State Governments. The unqualified extent given to its general powers, and the inclusion of incidental powers, as flowing from, and belonging to, particular enumerated grants, have constituted the essential points of difference among those who have divided upon the principles of the constitution: this has been the case, not only in the exercise of authority when the right was questionable, but in cases where the right was undeniable, tending, by its operation, to increase the weight of the General Government.

In giving to the constitution that rigid construction which sound policy requires, a just regard to the harmony of the States, and the perpetuation of their Union dictates, I cannot find any part of it authorising the exercise of a power, which, from its nature, is obnoxious, its tendency alarming, and its influence in the hands of those who manage its concerns, irresistible.

The power to establish a bank, cannot be deduced from the general phrases "to provide for the common defence and general welfare," because they merely announce the object for which the General Government was instituted; the only means by which this object is to be attained, are specifically enumerated in the constitution, and if they are not ample, it is a defect which Congress are incompetent to supply. I think this inference the stronger, inasmuch as those means were granted to us by those who had acted under the confederation, and experienced its defects, and knew precisely to what extent power was requisite to provide for the common defence and general welfare. In relation to this particular subject, the proceedings of the convention itself, furnish the plainest evidence, by rejecting the proposition to vest in Congress the right to grant incorporations.

I readily admit the motive of deliberative bodies cannot always be known; various considerations might have operated; they might have supposed the power already vested; but it is incumbent on those who can place faith in an interpretation so repugnant to the cautious and guarded phraseology of the instrument, to demonstrate it. If the right to incorporate exists, it is a general grant of power, equally applicable to all the objects of incorporations, and cannot be assumed as a means to carry into effect any particular grant of authority. To my mind it is much more natural to suppose a power to create monopolies had been surrendered to quiet the fears of those who saw in the constitution the germ which would, sooner or later, palsy the vitals of the State authority.

If the general phrases are not explained in the manner just mentioned, and powers so extensive and important are derived from them, it would be ridiculous to consider the jurisdiction of Congress restricted, they would confer equal

authority to establish monopolies in all the various branches of individual industry and commercial enterprise.

Sir, I will conclude this part of the subject by reminding you how essential it is, when we are giving an interpretation to the constitution to which the States are parties, to assume only what clearly belongs to us; moderation will inspire confidence, selfishness will excite disgust and suspicion.

The parts of the constitution which bear any analogy to this subject, are,

1st. Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare, &c.

2d. To borrow money on the credit of the United States.

3d. To regulate commerce with foreign nations, and among the several States, and with Indian tribes. And,

4th. To make all laws which shall be necessary and proper to carry the foregoing powers, and all other powers vested by the constitution in the General Government, into effect.

It will not be denied, that, if the establishment of a bank comes within the meaning of the power to lay and collect taxes, to pay the debts of the United States, and to regulate commerce, or is necessary and proper to carry the foregoing powers into effect, it would be a fair subject for legislation by Congress. But can any one pretend, that a bank would be a mode, contemplated by the Constitution, to lay and collect taxes on the people, for the purpose of raising revenue ? Would it comport with that wise principle of uniformity, and those guarded restrictions against unequal burthens on the people, which constitute the most valuable safeguard to the citizen ?

To understand these terms, we must give them a meaning which has been affixed by their usual import. When we speak of the power to lay taxes, we understand by it, a demand of money from the community, regulated by fixed and equitable principles, indiscriminate as to persons, and the species of property taxed. To suppose that every law which imposed burthens, or brought money into the treasury, was

constitutional, would destroy our equal system of Government, and substitute a capricious despotism. It would revive the exploded doctrine of free gifts, benevolences, and that shameful train of extortions practised by the old governments of Europe. Does it fall within the power to pay the debts of the United States ? This clause relates entirely to the application of the funds, after they have been accumulated; it is in conformity with that article which pledges the public faith for debts which had been contracted, as well as those which might be created in pursuance of the authority to borrow money upon the faith of the United States. If the power to incorporate a bank, grew out of the obligation to pay the debts of the United States, its charter should be so worded as to cease whenever they were extinguished; and it would be no longer for Congress to fix a definite period for its expiration. If the right of incorporation was ever meant to be given, it would most naturally follow from the regulation of commerce; yet no one has contended Congress could create insurance companies within the States.

Those who contend the bank is constitutional, consider it as necessary and proper in collecting the revenue. That it may be an useful instrument, I do not deny; it forms depositories convenient to the Government; but you should recollect, depositories, equally safe and convenient, can be procured without being purchased at the expense of exorbitant and invidious privileges, to a particular class in the community. I apprehend the constitution means something extremely different. When it empowers the General Government to collect taxes, it relates exclusively to the authority thus given to Congress, of employing compulsory process, in coercing the payment of taxes; it enables Congress to create, within the jurisdiction of the States, officers of the revenue, and through them, to exercise over the persons and property of the citizens, a concurrent jurisdiction, from which they otherwise would be precluded, and from which they had been precluded before the adoption of the constitution; it enables them to impose penalties and forfeitures, and to inflict punishment for resistance to their authority.

But, sir, admit for a moment the bank may be formed to collect the revenue; ought it not to be exclusively used for that object ? Whence the power to make it an instrument of commerce ? Why invest it with a capital, immense in amount, and sovereign in its control over the external and internal commerce of the country ?

Sir, I must again call your attention to the limited nature of our Government; we must administer it as we find it, and not as we think it ought to be. Under this view of the subject, so long as I understand the right to "lay taxes," to consist in drawing supplies from the people for public purposes, and not to tax one portion for the benefit of another, and "to collect them," the right to enforce payment; I cannot construe them to authorize the establishment of a bank.

Sir, a bank has been improperly considered a means of executing some power expressly given to Congress. The nature of incorporations is so clearly a distinct class of political power, that, before they can be converted into means incidental to an object, without the jurisdiction of the General Government, they must be shown to be absolutely necessary. Permit me to ask how has it been ascertained that a bank is necessary to the operations of the Government ? Has the experiment been tried ? Upon a question involving a breach of the constitution, it would be safer to be guided by experience than conjecture.

Sir, I am well aware that I can add nothing new upon the constitutional points. This subject was more thoroughly examined in 1791, and more ably elucidated than any other since the adoption of the Government. The celebrated speech of Mr. Madison, to which I ascribe my conviction, has been recently presented to us in the newspapers, and gentlemen must be familiar with it. I cannot give additional weight to the arguments, but I thought it proper to call the attention of the committee to that part of the subject, by the remarks I have made.

I said, sir, it must be shown that the bank is necessary to the operations of the Government; without its aid our fiscal concerns cannot be managed. So far from subscribing to the necessity of the bank, I believe the revenue would be equally

safe in the State banks and could be distributed with inconsiderable difficulty; the revenue received in most of the States is nearly equal to the expenditure within them, and when a deficiency occurred in any one, it could be supplied by arrangements with the different banks, by transportation or inland bills of exchange, in the same manner that the public engagements are fulfilled abroad. I will venture to assert, the Secretary of the Treasury will find no difficulty in contracting with individuals and corporate institutions, upon the most ample security, to transfer the public revenue, upon terms equally advantageous to the United States. Among the several States commercial intercourse is great, and daily increasing; the constant traffic which the different portions of the country maintain with one another, will give facility to the operations of the Government; and obviate the obstacles which are anticipated. The very commerce which enables the treasury to remit, with ease, immense sums to every part of Europe, is the result of this interchange among the States, and insures equal facility at home: where, then, is the necessity for this bank ? The accommodation of the bank to the Government, in times of emergency, and the use of its resources to support public credit, have been urged as motives for its establishment: how far such considerations weaken constitutional objections, it is needless to state. If, sir, the bank becomes a source of supply to the Government, to an adequate extent, it ceases to be one to the merchants. It, therefore, cannot answer in both capacities. The same necessity which throws the Government upon the charity of the banks, renders it incapable of discharging the obligation, and while the funds of the institution are locked up in the Government, its commercial functions must cease.

The relief which sudden and temporary embarrassments require, can, at all times, be administered by the State banks, and, therefore, supersedes the necessity of aid from this bank. Whenever, by disasters, the ordinary sources of supply are exhausted, or the unavoidable objects of expenditure exceed the revenue, a more copious and permanent aliment will be found in the wealth and capital of the citizens than by loans from banks. Instead of diverting the active and productive

capital from useful channels, the sluggish and inert mass will be drawn forth, in its aid, to support public credit, and cherish private enterprise. But, sir, is it prudent to rely upon an institution that may refuse you assistance ? What will be the influence of such an institution on the Government and the country at large ?

It cannot escape your recollection, that the establishment of the Bank of the United States was the origin of a system which assumed, as its basis, the enlargement of the national jurisdiction. Whether the principles of expediency to which it owes its birth be regarded, or the overweening influence it established over the moneyed institutions and merchants of the States, the charge, to say the least, is plausible. The close and intimate connexion between the Government and the bank; the dependence of the former for loans, and the latter for public deposited, have given the Executive branch its full share of influence and odium, shows incontestibly it was created to augment the power of the General Government, and the Executive in particular. Yes, sir, it was the commencement of those political animosities which have poisoned the sources of social intercourse; it was the origin of that doctrine of constructive power which abrogates the constitution, and nullifies the restrictions imposed upon Congress. So long as it exists, the body politic will experience the agitations and convulsive throes of well grounded jealousy in the States.

Sir, in the administration of this Government, two things alone are necessary to ensure its durability. You must, 1st, avoid every measure which will produce uneasiness among the States; or, 2d, that will extend the jurisdiction of the United States Government to subjects purely local. I do not mean that the rightful authority of Congress is to be abandoned for fear of giving offence; but whenever called on to take a step which will produce uneasiness, you should be perfectly satisfied the letter and spirit of the constitution bear you out. Do not gentlemen perceive the tendency of this measure to involve us with the States upon delicate points? Has not the United States Bank produced serious alarm ? Will not the alarm be increased by its continuance at this time ?

Yes, sir, some of the States have already taxed this institution, others have waited under the expectation we shall render a collision unnecessary. Suppose the charter renewed, and the stockholders should be taxed in such a manner as to destroy, virtually, the privileges you have guaranteed to them ? Are you to leave them unprotected, or will you draw the sword in their behalf ?

While you have time, avoid a situation not less perilous than the most serious foreign war. Since the establishment of the bank, the States have created banks; their people have accumulated capital, and [they will not tamely witness the perpetuation of an institution whose strength can, at any moment, overthrow whatever State bank](#) they may mark for destruction. However paradoxical it may appear, I consider the General Government strengthened by narrowing its jurisdiction: it will produce disunion whenever they interfere with local concerns. The habits, local interests, and passions of this country vary, and no one is a competent judge of what will suit the feelings of the State out of which he lives.

But, sir, there are general principles in which our feelings and interests are identified. These are subjects upon which we may safely act, and trust to the co-operation of every man and State in the Union. Does the bank affect the people locally ? The answer is obvious: it not only undertakes to fix the amount of capital, but interferes with the rights of property most essentially. It may change the fundamental principles of State law as to the liability of property for debts, and the mode of recovering them.

Let me caution you against the renewal of the charter; it is pregnant with the most baneful consequences to the tranquility of the country. Is it not better to sacrifice this golden calf upon the altar of concord, restore confidence and harmony among individuals as well as States, and to reunite the lovers of the constitution.

In the report of the Secretary of the Treasury, the convenience of obtaining loans from the bank is mentioned as an inducement to establish a national bank. To me, the abuse of this convenience is more dreaded than any other evil which will follow from the measure. Where have you seen a

national bank, connected with the government, which has not ultimately ruined the circulating medium of the nation ? It is a notorious fact, that money has depreciated seriously from the unlimited circulation of paper, and, if the Government should be compelled, by necessity, to use the funds of the bank, they must permit the increased circulation of its paper, although its money capital remains stationary. In this situation, the Government must tolerate an operation which will increase the evil of which we complain.

The example of England is a salutary monition to us, and we ought to profit from it. In that country, there was a time when the stability of the bank was a national phrase, "as good as the Bank of England." How is it now ? The funds of the bank have been borrowed by the Government ? -- its paper circulation increased, and Parliament has been compelled to make it a tender for the payment of all contracts. Who, sir, can estimate the complicated mischiefs of a depreciated paper currency, without specie for its redemption ? Should we be involved in war, or our property seized abroad, nothing can prevent universal bankruptcy; one wide spread ruin will pervade the continent. At this time the country is inundated with paper, bottomed upon the whole floating and real property of the community: should an alarm exist, can these funds be converted into money to redeem its credit ? Certainly not. Will it not be prudent to diminish the extent of this evil by putting down this bunk, which is the fountain from which the whole system flows ?

It is of little importance, as it regards the internal trade of a country, what constitutes the representation of property. Paper, iron, or any thing else which passes current, will answer every purpose of barter and trade: but, in its commerce abroad, it is indispensable that the circulating medium should be equally valuable, and readily acknowledged among all commercial nations; otherwise, all the operations of commerce, carried on with money, will be abandoned, or prosecuted under disadvantages equal to the difference in the value of the currency at home and abroad. In countries actively engaged in business, this branch of trade is not only great in amount, but by far the most profitable. How unwise,

therefore, not only to substitute for the precious metals paper currency, whose value is confined to the United States, but to augment the quantity until it depreciates even among ourselves.

I cannot sufficiently express my apprehension at a state of things which exposes us to irreparable injury, whenever a foreign nation shall interrupt our commerce, or my regret at the daily ascendancy of this fatal policy. In my opinion, sir, the true corrective will be applied, if the Government, instead of receiving the paper of a particular bank in payment for the revenue, shall require specie as the only tender. Such an operation would secure to the country its due proportion of the precious metals, would restrain within rational and useful limits, the circulation of paper, would insure stability to the moneyed institutions, save the people from the dreadful scene of bank swindling which is exhibited, and restore that equality of trade with foreign nations, which depends upon the fixed value of the circulating medium.

I am far from intimating that banks are useless, when established with a due regard to the actual wants of the country. Measured by that standard, they form the chief resource of industry, lubricate the wheels of commerce, and accelerate their motion -- but the Constitution has wisely entrusted this measurement to the States; they are the most competent judges. If the Bank of the United States tended to restrain the multiplication of banks, and the ruinous emission of paper, I acknowledge it would be a powerful argument in its favor -- it would go far to satisfy me of its expediency. But, instead of producing this effect, we have seen them, like mushrooms in a genial soil, spring up under its fostering protection.

The Bank of the United States has an interest in the multiplication of similar institutions, because they all tend to secure it from danger, and enable it to increase the discounts to the greatest amount. Before the United States Bank can be affected, all the other banks must be ruined, because the advantage of public deposits and the great extent of capital, will afford the means of averting the storm. What has been the fact upon this subject ? Have not the most shameful

systems of bank swindling been practised ? The State of Massachusetts found it necessary either to suppress her banks or limit their discounts. They found, upon examining the vaults of the banks, the whole of them did not contain specie equal to the paper issued by a single one. Yes, sir, instead of finding a sound body, they found a corpse rotten and decayed; the specie had fled, and the public were left without the prospect of remuneration. Have you forgotten the Bank of Rhode Island ? This bank had issued notes to the amount of \$800,000 upon a capital of \$45. Will gentlemen tell me, the Bank of the United States has checked, or will keep down in future, similar impositions ? I am justified in considering this bank instrumental in depreciating the currency of the country, and banishing its substantial capital.

There is no branch of industry more materially injured by the artificial state of credit, and the depreciated currency of the country, than manufactures. The precarious condition of commerce has naturally turned the public attention to this subject; and we may hope the time is not distant, when the United States will furnish the articles of substantial utility for themselves. The war in Europe, by deranging the operations of the manufacturer, and the taxes with which his industry has been burthened, have conspired to give a vigorous impulse to them here. But, sir, we shall probably witness their destruction, by the rapid depreciation of paper, which arises from the price of labor, and impedes the accomplishment of this most desirable object. The exchange of labor between the inhabitants of America and the old world, has always been disadvantageous. We have not only paid full profits upon the capital and labor employed in the production of what is consumed, but we have paid the taxes which the prodigal Governments of Europe have laid upon them.

Upon this subject a strong appeal has been made to our feelings; it has been said the dissolution of the bank will produce the most serious pressure in the community, and will devote numbers to ruin. I am confident no man would be more gratified than myself, to afford relief to those who may suffer, if I was not precluded by constitutional difficulties. While I admit the sufferings of individuals will be great, I am

equally convinced the picture is highly colored, and the facts exaggerated.

The time when the charter expires has been known to every person; the presumption against its renewal strong. How can you, therefore, believe the creditors of the bank have made no provision to meet the event ? It is scarcely possible to conceive that funds have not been provided to extricate themselves. When I say the presumption against the renewal of the charter has been strong, I do not allude so much to the sentiment in this House, as to the solemn declaration of the President of its unconstitutionality.

[Mr. Macon called Mr. Burwell to order, for using the name of the President (James Madison) in debate.]

Sir, the violation of order has been inadvertently committed; his name was not used to produce any effect here, because I really am unacquainted with his present opinions, except as I infer them from his speech in 1791. I cannot suppose he would use one set of arguments then, and act upon another now.

Under such circumstances, it would be criminal in this House to yield constitutional objections, and surrender important considerations of policy, to shelter those who have shut their eyes to the law. The Legislature cannot resist with too much firmness such an appeal; it is placing them at the mercy of a few, and sacrificing the general good to the clamors or follies of the improvident.

It has been said that \$8,000,000 in specie will be required from circulation, to meet the demands of the bank, and that the amount cannot be procured in the United States. I venture to assert, upon the statement furnished by the bank agents, the sum will not exceed \$2,500,000 over and above the specie in the vaults of the bank. After paying and settling with the community, the bank will owe to the stockholders \$10,400,000. If they retain the specie now in the vaults, amounting to \$5,000,000, the demand upon the community will be lessened to that extent; if it is paid out to meet the return of their notes in circulation, it passes into other banks and will return to them; so that in either case it will constitute a fund to pay the stockholders, and reduce their demand to

\$5,400,000; from this sum must be deducted \$500,000, the amount of real estate belonging to the corporation, \$2,750,000 loaned to the Government, and about \$300,000 in suit; leaving a balance not exceeding \$2,500,000. Will it be said that this sum cannot be raised in a country whose export of specie for the last year amounted to \$8,000,000 ? Will it be said the system of banks has reduced us to this low ebb, and yet we are called upon to perpetuate the evil ? From this view of the subject, it appears that the creditors of the bank will be compelled to raise \$7,500,000.

Can gentlemen seriously believe, that this sum will ruin the country ? If, sir, we judge from the number of banks springing into existence, in the different States, the conclusion is irresistible, that there is a redundancy of capital, more than ample to accommodate all the debtors of the bank. Scarcely a single legislature has separated, without granting charters. You have this morning, deposited in Committee of the Whole, the cemetery for the District, five banks, with an aggregate capital of three and an half millions. This thing must be downright cheater, or there is a redundancy of capital. If it is fraudulent, the sooner the delusion is dissipated, the better.

I shall, for the present, admit these applications are evidences of capital, and contend they will operate effectually to relieve the community. But, sir, it will be found, from the statement of the bank agents, the directors have contracted debts, nearly, or quite equal to the amount due them, and that they will find difficulty in meeting the claims against them. These claims will naturally be transferred to those who are indebted, or deposited in State banks, where they will constitute funds, upon which accommodation can be extended. The moment you destroy the bank, the notes it has issued, to the amount of \$5,000,000, will return; the deposits, amounting to nearly eight millions and a half, will come into the market; these, added to the private capital which can be spared, will supply the means of sustaining the shock.

I feel confident the removal of public deposits will go far to remedy the evil. The loan obtained from the bank, and payable the 1st of January, will add to the facility of satisfying

the claims of the bank. Even the funds of the institution itself, will rapidly glide into channels of profit, and contribute to the object. Thus, sir, this omnipotent association, whose influence pervades the continent; whose nod dispenses protection, or ruin, like an angry cloud, will be disarmed by the conducting powers of the State banks; there will be no explosion. Its substance will be secreted, mixed with their juices and strengthen the general system.

In the public discussions upon this subject, we have been told, the quantity of specie has been reduced below the actual wants of trade; and that the portion of stock held by foreigners, will be carried abroad in money. Those who endeavor to alarm us in this way, are either ignorant themselves, or they calculate largely upon our credulity. It is, sir, a melancholy fact, that specie has been almost banished from circulation, by paper, and from the vaults of the banks by exportations abroad, in a commerce which does not replace it. It is equally true, that this bank has contributed, more than any other, to produce this deplorable result. But it is evident, the exportation must be limited in amount, or the import of specie commensurate, if we do not continue the present system, which threatens us with a currency exclusively paper.

As to the exportation of specie, by the foreign stockholders, nothing can be more absurd. Have not the motives which induced them to invest their property in the United States been strengthened? Yes, sir, funds in every part of Europe are fluctuating and insecure; the grip of taxation has embraced them, and you must think worse of the judgment of these proprietors than I do, if you suppose they will quit a country whose institutions are safe, and whose property is advancing rapidly in value. But, laying aside considerations which, of themselves, are sufficient pledges, the rate of exchange renders the remittance of specie, particularly silver, altogether improbable. Would any man in his senses ship specie to England, when he can purchase bills of exchange, eight or ten per cent, below par? Will he lose four per cent, insurance, freight, and commissions, when he can make eight or ten by remittances in bills of exchange? These questions carry conviction to every man, unless he supposes

money is worth more than this difference over the paper currency of the country. Although the exchange is in favor of Holland, four per cent, it would be cheaper to lose that amount, than pay fifteen or twenty per cent. insurance, &c. for the transportation of specie, subject to risk from British cruisers, and seizure from French rulers in port. No one will say that the Dutch have any motives to draw their funds from the United States.

After showing, I hope to your satisfaction, that specie, cannot be remitted in the actual state of things, I will suppose foreign stockholders should transfer their capital; how would that operation affect this country ? From what I have said, it appears that the one million held in Holland, and six millions in England, if withdrawn from the United States, would only be an exchange of funds with the American merchant, and would not affect the money in circulation. I confidently believe, the present embarrassments of merchants arise from the spoliations of the belligerents, and principally from the accumulation of funds in England, which they cannot withdraw but at a great loss. For some time past shipments have been almost confined to England; the prices have been goad, and the proceeds far above the demand for English merchandise; added to this, whenever shipments have been made elsewhere, the profitable purchases of bills have increased their funds in Great Britain.

The fact is clearly demonstrated from the state of exchange, which, for the first time, is greatly in our favor. If, then, the stockholders should remit their funds by bills of exchange, it would bring six millions into the market, and not only relieve the American merchant from the unfavorable state of exchange, but would at once furnish the means of meeting his engagements and relieving his embarrassments. It would be a loss of that much capital to the United States; but, we can bear the loss, as is evident from the rapidity with which new capital is supplied to form new banks. Should they give a preference to moneyed institutions here, the community would be equally relieved.

It may be asked, if foreign capital remains, shall we not be exposed to its influence ? I do not, sir, object to the use of

foreign capital by individuals, but I never will consent to organize it under the patronage of the Government. In the hands of an individual its influence is comparatively insignificant. Combined in the form of a national bank, it becomes truly formidable to the best interests of the nation; besides, I well know that individuals, who can obtain money at an interest less than the profit it yields, cannot be prevented by law from borrowing. In this form, it may subserve the purposes of industry, but cannot control public opinion, or obstruct public measures. If, sir, the pressure upon the community should not be removed in the mode I have suggested, the bank will naturally proceed in the collection of its debts, in a manner best calculated to secure itself. I cannot imagine, measures will be adopted which will force the merchants, either to fail, or to refuse payment. Such conduct on the part of the bank, would be wantonly cruel and unjust, and would probably terminate in the greatest losses. In the event of such a procedure, the merchants would compel the bank to resort to the ordinary course for the recovery of debts, and under such circumstances, I do not apprehend their credit would be affected with other banks.

The alarming scarcity of specie, produced by the facility which the bank has furnished, to procure it for exportation, and speculations in bills sold by the agents of the British for the use of their troops in Canada, and the West Indies, cannot be too strongly impressed on the mind of the committee, or too soon stopped by the Government. It is true, that a temporary inconvenience results from the latter mode of exportation, because it is soon brought back in return for provisions, supplied by the Middle States. It must be known, sir, to you, why the import of specie, which nurtured the East India trade, has ceased, since the revolution in Spanish America, which opened the direct trade to the English for supplies of British and East India manufactures, and the facility of shipping specie direct to Spain, without the intervention of bills of exchange obtained in this country, on Europe, the supply of American produce to the Spanish colonies, has never been more than sufficient to keep up the necessary quantity for our own use, and for the India trade, to

an extent limited by our own wants; hence, the disadvantages of the paper system, which furnishes the means of prosecuting this trade after its utility is done away.

Gentlemen will tell me this evil will correct itself, and that the merchants will not persist in a branch of business, unprofitable for want of markets. I readily admit this position to be correct; but, before all those sanguine adventurers will be convinced, who are tempted by the accommodation of the bank, we shall be so far drained of our real capital, as to be incapable of sustaining public confidence, in the stability of our money institutions. There is one effect, from the extent to which the banking system has been pushed in this country, which deserves serious attention. I think the capital of the banks should rather fall short, than exceed the demand of those engaged in trade; whenever there is an excess of capital, the competition will be among the banks to lend, and they will advance funds to those who are not entitled to credit. This fictitious credit, given to individuals without property, will expose the farmers and planters to the most serious injury, because, whenever they fail, their property will go entirely into the coffers of the bank, or the hands of their endorsers. In Baltimore, where the bank capital has always exceeded the demand, by solvent customers, and where, to give full employment to their funds, the banks have been induced to accommodate mere speculators; failures have happened to the amount of a million, without property to pay the creditors twenty cents in the dollar. This has been the effect of excessive bank capital.

[A gentleman from Maryland corrected Mr. Burwell, by stating that the failures had exceeded, in the aggregate, the sum he had mentioned, but in no single instance had the loss to creditors exceeded 600,000 dollars.]

I stand corrected. Only 600,000 dollars ! Why, sir, this moderate sum would ruin a whole country, if it had fallen upon the farmers.

If the apprehensions of the public should coerce you to renew the charter at this time, I shall consider it perpetual. The same means which secured it now, will not be forgotten, or neglected, hereafter. You may rest assured, the magic

terror of bankruptcy will be revived, when there is occasion. Perhaps the growing wealth of the people, may hereafter raise them above the control of the bank, with ten millions capital, but if you should unfortunately adopt the favorite project of some, to establish a grand national bank, with a capital stock equal to 30,000,000 dollars; if, afterwards, you keep pace with the growth of the nation, you may indeed despair of all control over it in future. [It will become so interwoven with the fiscal transactions of society, and so intimately blended with the existence of the Government, that their duration will be co-equal](#); the dangerous power of a bank, extended over the continent, with a capital which would necessarily embrace in its funds, all the individuals of wealth and influence, would produce the same effect with a national debt, to that amount; and when you recollect, that this machine will be controlled and managed by the executive branch of the Government, you cannot but feel the most serious apprehension of the consequences.

Sir, I do not discuss this question with party feelings; I look forward to the time when the bank and Government will feel in unison, and act in concert. The opposition of the bank is temporary, and will soon yield to its obvious interest. It is that period to which my fears are directed. Who can doubt that the present misunderstanding is the result of momentary causes? Yes, sir, the quarrel is an unnatural one, explanations will take place, reconciliation will ensue, and then we may deplore their intimate friendship infinitely more than their hostility now.

Banks are commercial institutions; the first impulse of their nature is to make money, and support the power which can promote their profits; the individuals concerned in them will feel political passions, and may indulge them, but they will learn, from experience, the wisdom of suppressing their passions when they hazard the loss of profit and patronage. I have, therefore, felt no disposition to know any thing about the directors, or to hear the instances of political intolerance and individual favoritism. It would be silly to found our views of the tendency of such an institution upon its conduct during a particular period. I am against giving any set of men such

exorbitant power over the persons and property of the community; I am opposed to a moneyed aristocracy which can hunt down whoever may be offensive to them, and not from hostility to the particular persons who now compose the bank.

Sir, the time may arrive when the Government may fall into the hands of men whose policy may, in my estimation, lead to the destruction of the Constitution, and the corruption of public virtue. Would you wish to see such men bolstered up by the influence of a national bank ? Would you be satisfied to see the good sense of the country hood-winked by money influence ? A corporation, possessed of such ample funds, could control presses or establish them to support the most iniquitous men, and advocate the most detestable principles. You should bear in mind that this influence cuts both ways; and it is better to leave public opinion unfettered, trusting to the sound sense and discretion of the People, free from the operation of all extraneous power.

What would the world say if you should demolish this bank to create another ? Is there a man in the community who would not condemn you, and justly reprobate a policy so short sighted and selfish ? Such conduct would give full scope to swindling and speculation; and scenes which stain with shame the history of this Republic, would be renewed.

Sir, the system of paper credit, against which I have entered my protest, and to which I attribute the artificial and insecure state of this country, deserves nothing from you. You need not violate the Constitution to preserve and extend it; without your fostering care, enough will remain to alarm those who prefer solid wealth to the mere appearance of it; although those who think the wealth of a nation can be augmented by printing a few reams of paper will be dissatisfied, they exult in the deception and premature prosperity which flows from public delusion, and will be overthrown the first moment your real condition may be tested by difficulties. I, sir, have been accustomed to think the wealth of a nation consisted in its productive labor, and its capital could be safely augmented only in the ratio of the difference between its consumption and productive labor.

This is the true mode of acquiring capital; the process will be slow, but the advance will be permanent. It will depend upon principles of economy, industry, and steady exertions; it is incompatible with prodigality, speculation, and profligate acquisition of wealth. Virtue is the basis of one, delusion and imposture of the other; a people thus situated, steadily exerting its powers, will furnish ample means to procure circulating medium, and prudent habits will add to it with sufficient rapidity. I have always preferred being a happy to a splendid nation.

Sir, I have now closed my remarks; the particular situation assigned to me, by the House, in relation to this subject, has compelled me to state the extent of my objections to the bill. I have carefully refrained from expressions which could wound the feelings, or impeach the motives of those who differ from me in opinion. I have no disposition to say any thing about the transactions of the bank; they are all unknown to me, and I care nothing about them. My conscientious belief is, that the law was unconstitutional, and I sincerely trust we shall destroy what has so long defaced its original purity, close up the breach which has been made, and cement it by a vote upon principle. I confess the consolation I shall feel, in the success of my motion, will be greatly diminished if it obtains by the intervention of other motives.

When Mr. Burwell concluded, the Committee rose and reported progress; and the House adjourned.

Thursday, January 17, 1811.

The same question pending:

MR. FISK.³ Mr. Chairman: I regret that we are called upon to vote for or against striking out the first section of this bill, at this time. I could have wished that, upon a bill of so much interest and importance, we could have proceeded to have filled the blanks, and made such amendments, as would have obviated many objections which may be urged against it in its present form. I am not prepared to give my vote in favor of a renewal of the charter of the Bank of the United States, either upon the terms upon which it was originally granted, or in the manner contemplated by this bill; yet, upon conditions less objectionable. I should [feel myself bound to vote in favor of a renewal](#). But the question presented upon this motion is not upon what terms this charter shall be renewed; but whether it shall be renewed upon any terms, subject to any conditions Congress may impose.

In this view, I consider it the most important subject upon which this Congress will be required to act. It is determining a question, which is connected with our finances, with the circulating medium of the country, and with our agricultural, commercial, and manufacturing interests; and, as such, it cannot but be interesting to every class of our citizens.

The interests and prosperity of the United States, are not only intimately, but inseparably, connected with trade. The market of the farmer depends greatly upon the merchant and the shipper. And the price and demand of every article of produce is in a great degree, regulated by the difficulties or facilities of payment. Let the difficulty of paying be increased, and the price of produce immediately falls; for the demand for exportation becomes very limited, the markets are overstocked, and prices reduced. Any sudden check to our commerce, whether produced by our own municipal regulations, or the outrages of foreign powers, checks the market and the price of produce, so that not only the merchants, but the farmers, feel its effects. I scarcely need recur to the history of the times, when trade was principally suspended in this country, to show how severely the

suspension operated upon every class of our citizens and in every part of the country. This period in our political annals will be long remembered. So great was the distress in some States, and agricultural States too, that their legislatures deemed it necessary, for the protection of the debtor from the power of his creditor, to stay the administration of justice, and prohibit by statute the issuing of an execution for the collection of any debt.

This proves the connexion which subsists between the two great agricultural and commercial interests of this country.

Agriculture, commerce, and manufactures, constitute the source of our wealth, revenue, and prosperity. To foster and cherish the principles upon which rests our existing hopes and future prospects, can never be a question of doubtful policy with a wise and patriotic legislature.

We have seen that commerce is essential to our interests; but commerce will not flourish without credit. It never has prospered independent of credit. As credit is essential to trade: so is punctuality to support credit. Look at the business of any commercial people and see the integrity and fidelity with which punctuality is maintained in order to support their credit.

For several centuries past, banks have been the successful medium through which credit has not only been preserved, but great wealth acquired. This assertion is warranted by the history of these institutions, and of the countries where they have been patronized. The first bank established in Europe, was at Genoa, in 1407, 401 years ago; this was soon followed by one at Venice.

The Bank of Amsterdam was established in 1609; and shortly after, those of Hamburg and Rotterdam; and the Bank of England in 1694. The Royal Bank at Paris in 1718. The Bank of North America in 1782, a memorable period in our history, and the Bank of the United States in 1791.

All these different institutions show, that enlightened legislators have entertained but one opinion upon this subject both in Europe and America, for the last four hundred years. They have seen and acknowledged their utility. Banks have

long since been considered not only essentially useful in the transaction of commercial concerns, but as highly necessary to aid the fiscal operations of Government. And a more unanswerable argument cannot be urged in favor of their general utility, than their uniform success; to this may be added the prosperity of the people, and the countries, where banks have been supported. Their immediate advantages are, a convenient circulating medium; the safe depository they afford for cash and funds. And they serve to keep the standard of money steady and correct; to insure punctuality; to preserve credit; to inspire confidence, and to promote a spirit of industry and enterprize. They are not, as many have supposed, in their nature hostile to government and dangerous to liberty. They rather form a barrier to tyranny and oppression. Their principal business is to lend money at the common rate of interest, and thus prevent usury. The owners of banks are generally rich men, who have not only their personal liberty, but a large property to risk, by sedition, treason, and rebellion. It is their interest to resist oppression. We need scarcely point to the continent of Europe for proof of the fact, when we assert, that trade and banks cannot flourish where despotism prevails. Despotic power generally ruins trade and banks, but no instance occurs in history, where banks, not under the control of government, have ruined a State. A bank owned by government, and under its command, would be an engine dangerous to the people. But when owned by individuals, neither the people nor the government have any thing to fear from it. It is, then, dependent on both for its business, prosperity, and usefulness.

With the evidence which both history and experience offers to our reflection, we cannot doubt the utility of banks, nor deny but that they have been beneficial to us. And we are justified in the conclusion, that, under proper regulations, they may subserve the best interests of the people of the United States. They are now in successful operation in almost every State in the Union, and that they have been useful, the present prosperous state of the country abundantly proves. We enjoy as perfect security for life, liberty, and property, as any people under any government ever did. These are the

great objects of a good government. And we may triumphantly ask, where is the nation or people that enjoy these with more freedom and safety than the American people? A parallel for our liberty and prosperity, for the last twenty years, is not to be found in the history of man. Our wealth, population and resources, have increased beyond what any one would have calculated, or imagined; and beyond what strangers and foreigners now believe. Industry, wealth, and contentment pervade every quarter of our country, and poverty and oppression are unknown to our citizens.

In 1791, the year this bank was incorporated, our exports amounted to about eighteen millions of dollars, and in 1804, they had increased to about seventy-six millions, gaining in thirteen years, fifty-eight millions; and our tonnage in about the same proportion.

Much of this prosperity is to be attributed to the active capital, which has excited industry and a spirit of enterprize among us; and the activity of this capital has been, in a great degree, created and promoted by the Bank of the United States. Its operations have been extensive in all our trading towns. It has aided in loans and discounts, and assisted in the collection, safe-keeping, and transmission of our revenues. It has been the depository of our treasury, and is now become incorporated with the administration of the fiscal department of our Government. The connexion which it has formed with almost every branch of business in the country, is not slight and trifling, and so easily to be severed as some seem to believe. Its operation are deeply interwoven with the dealings and concerns of all the men of business in the United States.

With a capital of ten millions, it has furnished accommodations of fifteen millions a year. This has been employed principally in trade, in making prompt and cash payments to our farmers for their produce. This again has furnished to our citizens a ready and profitable market for every article of produce. These high profits of a good market have gone into the hands of the farmer, to cultivate, improve, and enrich the country. And travel through any State in the Union, and their effects may be readily seen, affording a

prospect, consoling and elevating to the philanthropist and the patriot. The land is highly cultivated, good buildings, turnpike roads, bridges, and other expensive improvements indicate the wealth of our citizens, and the prosperity of the country. Money has been freely circulated; trade has been active; produce high, and our country has been improved by these unexampled advantages to a degree far beyond what the most sanguine calculations twenty years ago could have anticipated. And yet, sir, we are gravely told, that this bank has nearly ruined the country; that it is threatening our best interests with destruction ! As well might gentlemen tell us, that total darkness prevails at noon day; or that the sun in his meridian splendor affords neither light nor heat to any part of this globe.

The principal portion of the trade and business of the United States has been conducted by a paper medium, metallic has scarcely been seen. The amount of this circulating medium is, say fifty millions. Now, what is proposed by denying a renewal of the United States Bank charter ? That this bank shall close its concerns, and of course stop all its accommodations. This must necessarily check and change at least one-third of the circulating medium of the country. It will undeniably require \$24,000,000 to be directed to one operation, and, for a time, to one point: for the capital is \$10,000,000. This is to be collected to divide among the stockholders. There are \$19,000,000 due to the bank; this must be collected. This will occasion a demand for this amount from other sources; it must be paid. And the \$5,000,000 in the bank, makes the sum \$24,000,000 which must be suddenly called in. The effect this will have upon the various interests in the country, can neither be described, or conceived. It must inevitably give a general and heavy shock to all paper credit ---this credit so much and profitably in operation must receive a severe if not a mortal wound. And what substitute have we for this, when it shall be destroyed ? Silver and gold coin cannot be relied on. There is not, from the best estimate, an amount to exceed \$10,000,000 specie in all our cities and trading towns, and this will be collected by this bank. The price of all stocks and every kind of produce

and species of property must suffer a great depression: for a scarcity of money enhances its value, and, consequently, depresses the value of every other species of property. That this sudden, if not total change in our system, must occasion great embarrassment, produce failures, disappointments, and distress among our citizens, is certain.

To say the least of such a measure, is to term it an experiment which no well-regulated State has ever dared to make, from the first institution of civilized society to the present time. Stronger governments than ours, in risking such an experiment, would ensure their overthrow and ruin. Perhaps the good fortune of the American people is a sufficient guarantee against all the disastrous consequences which any other people might experience from such a measure. But I own, sir, I dare not incur by my vote the awful responsibility of this bold and untried experiment, unless compelled by the constitution. This, in my most deliberate opinion, the constitution does not require.

But the question of constitutionality I shall not at this time discuss. If it is a question which Congress may discuss and decide, [it was discussed and deliberately decided at the time this charter was granted](#). The decision it then received has met with the general approbation of the States and of the people. Branches have been established in a number of the States, and the bills have circulated without opposition or difficulty in all. And counterfeiters of this paper are punishable for forgery, by the statutes of the different States. For twenty years, this institution has received the countenance and patronage of the Government. In this patronage there has been no difference in the several administrations, unless that of the republican administration has been the most extensive. This bank has been employed by the Government to keep its treasure, to collect and transmit the revenue and the Government, it will be recollected, originally owned one-fifths of the capital, which has been sold at a great advance. The United States owned \$2,000,000, equal to 5,000 shares.

2493 shares were sold in 1796-7, at an advance of 25 per cent. \$997,200

25 per cent, gain, 298,600

First sale amounted to - \$1,295,800

287 shares sold in 1797, -	\$114,800
At 20 per cent, advance, gain,	22,960
	\$137,760
By the republican administration in 1802, 2,220 shares,	888,000
At 45 per cent, advance, gain, -	399,600
	\$1,287,600
	137,760
	1,295,800
	\$2,721,160

So that the United States gained \$721,000; and of this, \$399,600 has been received by the administration under Mr. Jefferson. This sale was [sanctioned by a vote of the House](#) of Representatives, although it was to a foreigner, an Englishman, Mr. Baring; and our Government gained on this sale \$399,600. This conduct of the Government, and of the then republican majority of the House of Representatives, did not evince any scruples about the constitutionality of the charter. If it was deemed unconstitutional and dangerous to the liberties and best interests of the people it was not for those who entertained this opinion to give it countenance and support. They ought rather to have taken measures to have checked and stopped its operations. And there is nothing in the argument that the faith of Government was pledged for twenty years, and the law, although unconstitutional, could not have been repealed: for Congress cannot pledge the faith of Government by an unconstitutional law. If Congress should establish a monarchical Government in any State or Territory, and by law guarantee it to the people for twenty years, would any one dare to contend that the faith of Government was pledged for twenty years, and this law could not be repealed? Certainly not. And why? Because such a law would be unconstitutional. It would be the duty of the legislature to repeal it, because the members are sworn to support the constitution. And how will gentlemen who have been members of this House many years, and entertaining the opinion that this charter was a violation of the constitution, and voting to approbate the sale of the bank stock, and for other measures to countenance its operation, and never attempting to rid the country of this monster, reconcile their

conduct with their duty ? It can only be reconciled by the conclusion that they did not question the constitutionality of the charter. This conclusion is warranted by the act of Congress, passed 16th February, 1804, [Laws U.S. vol. 7, page 87,] in these words, entitled "an act, supplementary to the act to incorporate the subscribers to the Bank of the United States."

"Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the president and directors of the Bank of the United States shall be, and they are hereby, authorised to establish offices of discount and deposite in any part of the territories or dependencies, of the United States in the manner and on the terms proscribed in the act to which this is a supplement."

If the original law was unconstitutional, this act extending the powers of the corporation was equally unconstitutional. This act was passed by a republican Congress, who did not believe that the original charter was unconstitutional. It is but lately, very lately, that constitutional difficulties have suggested themselves to some gentlemen. Even at this time, the administration has no objection to the constitutionality of the measure. The report of the Secretary of the Treasury, the proper officer to speak the opinion of the Executive upon this question, is my authority for the assertion, that the Executive will have no constitutional difficulties to encounter in passing a bill for the renewal of this charter. That report was made pursuant to a resolution of this House, and has been laid upon our tables. It states no objections to the renewal of the charter, but points out the advantages the Government have derived from this bank, and hereafter may derive, if it shall be continued. How is it that this report or the chancellor of the exchequer, upon a question of financial economy, is not respected, as were his reports in former times ? Has he lost his talents at calculation ? Does he tell unwelcome truths, or is there "*something rotten in Denmark?*" Great exertions have been made to excite sensibilities, and clamor against the renewal of this charter. The money changers, stockbrokers, and speculators, [vultures that prey upon the vitals of the](#)

community, have been flying through the country, denouncing all who should express or entertain an opinion in favor of the measure. But, I trust, we are not yet arrived to that period in the history of our Government, when Congress must legislate under the hissings of the gallery, or the denunciations of prostituted or misguided presses. If we are, sir, we may bid adieu to our liberties. Unawed by these vaticinations, it becomes us to examine patiently, and decide deliberately this great question presented to our consideration for decision.

In examining this question, we are naturally led to inquire, is an institution of this nature, in the present state of our country, necessary ---is it proper ? and in pursuing this inquiry, let me recur to the report of the Secretary of the Treasury; and see if the aid of this institution is required in the administration of the financial department of the Government. Will not his experience enable him to answer the question correctly ? To what better authority shall we resort ? What are the principal duties of the Treasury Department ? The collection, safe keeping, transmission and disbursement of public moneys. For performing all these duties, this bank has been the efficient and faithful agent. In twenty years past, it has collected and disbursed, at it own risk, not less than 100,000,000 dollars public moneys. If you allow the revenue to have averaged \$5,000,000 a year, it would amount to this sum received in, and the same amount transmitted and disbursed, amounts to \$200,000,000 in twenty years. Having a greater capital than any other company in the country, the public money is more secure with this company than any other. It then assists essentially in the safe keeping of the money, and this the report tells us is one of its advantages to the Government. But its more essential assistance to the Government is in the collection and transmission of the revenue at its own risk. Our revenues are secured by bonds, and these bonds are payable at this bank and its branches, in the different ports of collection. They are, accordingly, lodged in the bank for payment, and when due, they must be punctually paid, or the debtor loses his credit at the bank, and of course in the commercial world. Hence every exertion is made to pay at the time the bond becomes due; and hence

our revenue has been paid with such scrupulous punctuality and with so few losses. And is it not an object of magnitude, that we provide for the safe and sure collection of our revenues, which in prosperous years, may amount to eighteen or twenty millions of dollars ?

Put down this bank, and [how are your revenues to be collected ?](#) Through the medium of the State banks ? You do what no prudent man in his individual concerns, would think of doing. You discard a faithful, honest, responsible agent, whose integrity and fidelity you have known for twenty years, and you place your estate in the hands, and at the disposal of, twenty or thirty entire strangers, of whose character and responsibility you know nothing, nor have the means of acquiring any knowledge, and over whose conduct you have no control. Should an individual act thus with his property, he would be deemed to have lost all regard for it, if not considered a madman. In resorting to the State banks, we are offering the amount of our revenue as a bounty for intrigues, cabals, and faction, through the country. In almost every State there are a number of banks, and each will endeavor to get the revenue collected in that State, to keep and trade with. It must be given to one or divided among them all. If one is selected as the favorite, all the rest become jealous, dissatisfied, and exert their capital and influence against the favorite bank, and its patron, the Government. This will awaken a spirit of faction in every State, yet unknown in this country. If all are to be gratified in their request for the deposits, the Government must open separate accounts with all the different banks in the country, to the amount of fifty or sixty, and new companies will be formed, and new applicants request to divide the business and share the profits. Indeed, there will be no end to the scenes of speculation and intrigue which will soon appear, if this course is adopted by the Government.^{\$}

^{\$} And, according to your false premise, revenue can only be collected through a Bank. If it were true, all the more reason to own this bank entirely, and operate it as part of the Department of the Treasury ---selected and tested government-employees handling every transactions.

And how about a Postal Savings Bank, with a branch-office in every Post-Office, operated by trusted government-employees, under the supervision of the Post-Master General ?

Again: the Government have no means of ascertaining the system or principles upon which these different banks conduct their business; they are creatures of the States, and in no way answerable to the General Government. The treasury cannot inspect their books, nor ascertain their funds; of course we must be ignorant of their responsibility. And yet we are to deposit moneys in their hands, to five or ten times the amount of their capital. But few of the State banks have a capital beyond a million. In New York and Boston the revenue deposits may amount to five or six millions a year; and are we to intrust this with a corporation, which, if it failed, would not pay more than a fifth part of it? Besides you may not be able to command these moneys when required, if left with those over whom you have no power. It is possible some of these State institutions may be hostile to your Government; they may refuse payment, and this refusal be supported by the State. Shall we place our public treasure under the control of States which can order out their militia, to oppose and resist the execution of our laws, or refuse their aid to enforce them?

But, suppose the revenue collected, and safely kept by these different banks, how is it to be safely and speedily transmitted to different parts of the Union, to answer the demands of Government, and at whose risk and expense? Can the opponents of this bill obviate this difficulty? It is a difficulty of a two-fold nature, first, in finding a safe mode of conveyance, and secondly, a convenient medium to transmit. Specie cannot be procured; and what State bank bills, if sent, would pass current in every part of the United States, as the bills of this bank do? Carolina and Kentucky bills are unknown, and would not pass in New York and Boston; and New York bills would not pass in Kentucky or Carolina, New England bills do not pass in New York, but at a considerable discount. But, under the present system, if Government have five millions deposited in Boston, and it is required to be paid at New Orleans, a draft is given by the branch in Boston upon that in New Orleans, and the money is paid at the latter places as soon as the mail can travel there.

Again: if the Government is to take the risk of collecting and distributing the revenue, let us inquire what this can be done for. The revenue amounts to, say ten millions of dollars, collected and paid out annually, and allow one and a half per cent, for collecting, and one and a half per cent. for transmitting, as low a rate as it would be done for, and this, on twenty millions, amounts to 600,000 dollars a year, a sum equal to our civil list.

But, another serious evil is to be encountered in putting down this bank; you deprive the country at once of a circulating medium. Silver and gold cannot be had; and what paper, but that of the United States Bank, will pass current in every part of the Union ? None. You can outstride, in twenty-four hours, the credit of any other bank in the country. This evil will be most seriously felt in the interior. It will at once check emigration from the North and East to the West. For those who wish to remove, will not be able to sell their property; it will fall essentially in value; and if they should sell, coin not being in circulation, they could not procure any paper money which would pass current to pay; the expenses of travelling from Massachusetts to Ohio and Tennessee; and if they should arrive there, they would have nothing to purchase land with. The sales of our land must stop for a time, at least till specie can be brought into circulation, for specie only is taken in payment; this comes now through banks; but the banks will require it all for their own support.

And will not the people inquire why all this pressure and embarrassment ? They certainly will. And will they be satisfied with the answer, that the bank was unconstitutional, and could not therefore be continued ? No, they will not believe it. They will justly reply, that this state of things ought to have been foreseen and provided for by their rulers, as it might have been. In the ten past years of peace, plenty, and prosperity, which we have experienced, instead of devising a system to take the place of the present bank, on the 4th of March, what have the rulers done ? They seem never to have once thought of the event that is now about to happen ? By the acts of Government, the country has, in a degree, been

deprived of the capital which might have been here to meet the crisis. Above \$30,000,000 have been sent out of the country, and much of it in specie, to pay the public debt, when payment was not demanded. All internal taxes have been repealed, and reliance for revenue has been made on imposts and tonnage, which are now about to fail us, and that, too, when the treasury is nearly exhausted. For, after paying the \$2,750,000 to this bank, there will not remain much more than this amount in the treasury. The revenue bonds outstanding, to the amount of about \$10,000,000, will not, cannot be paid, if bank accommodations are to stop. Recourse must be had to loans, the last resort of empty purses and empty heads, and a press for money, and its high price, will render loans difficult to be effected, and subject the Government to a high rate of interest.

These considerations suggest to us the imperious necessity of continuing the operations of this bank, under such restrictions as may be deemed most advisable, and thus to keep in motion the present system of credit, and support the existing principles of doing business throughout the country.

And what are the reasons for refusing a renewal of this charter ? Let them be examined, and, unless they are solid and substantial, let them not prevail. One reason assigned is, that it employs a foreign capital, which is injurious to our country.

This is not an objection of any weight; and if it were, have Congress the power to prohibit the employment of foreign capital in the United States ? If we prevent it from being employed in this bank, it may go into the State banks, or take any other direction, not prohibited by the constitution or laws of the country. But it has ever been the liberal policy of this Government, to invite foreign capital, and foreigners, to come among us.

Gentlemen seem to consider that portion of this stock, held by foreigners, as having no other connexion with our own citizens, than compelling them to pay eight per cent. per annum interest for it.

Let us for a moment see how this money, to the amount of \$7,200,000, owned by foreigners, is employed, and the

objection urged on this ground must vanish. It will not be denied, but that it is used in trade. And it is wanted here, to make cash payments for shipments made to Europe. This enables the American merchant to make prompt payment for the goods he imports from Europe, by which he obtains them, say eight per cent. below the credit price, while he, instead of obtaining this credit in Europe, obtains it at the bank for six per cent. Here, then, is a difference of two per cent. in favor of the American merchant. This, on \$7,200,000, amounts to \$144,000 a year ---in twenty years, to \$2,880,000. This is one item saved in retaining this capital, in this institution and \$1,200,000, the sum to be paid by those stock-holders for the privilege of continuing their capital in this bank, is another item and another, larger than either of these, is the advance upon the stock proposed to be subscribed by the United States, which may be estimated at \$2,000,000. These, together, amounted to \$6,080,000, which the Government and citizens of this country will receive by passing this bill. So far, this would be raising a revenue, and not liable to any constitutional objection.

But, it is said, this capital has an influence upon elections, unfriendly to liberty. Whatever may have formerly been the political influence of this institution, the competition of banking business has long since rendered it harmless as a political engine. But, while gentlemen complain of its accommodations being partial, they propose the singular remedy of destroying them entirely; because it has committed the fault of not accommodating every body, it must now cease to accommodate any body.

If we have not too much capital, our citizens will find a profitable use for this. That this is wanted, and engaged in business, is incontestibly proved by the dividends which this bank has made of eight and nine per cent. profit. If the charter shall expire on the 4th of March, this \$10,000,000 capital, which may, and probably will be collected in specie, will be again thrown into circulation here, or sent out of the country.

Suppose it retained here, what are we to gain or lose by the experiment ? The scarcity of specie consequent to this

operation, will appreciate its value, and, in like proportion, depreciate the price of every other kind of property, say thirty per cent. These foreign stockholders, having \$7,200,000 in specie, will be able to speculate on the distresses of your own citizens. They will be the gainers, we the losers. If they can make by the bargain, as they undoubtedly may, 30 per cent. this on \$7,200,000 would amount to \$2,160,000; which, added to their present capital, would be \$9,360,000. This amount, vested in any other bank stock, or valuable property, would continue to yield them eight per cent, profit annually. This, on \$9,360,000 amounts to \$744,860 a year, \$168,800 more in a year than they would receive by continuing their capital in this bank. It is evident that a refusal to renew the charter of the Bank of the United States will not prevent the use of foreign capital among us, as has been urged by gentlemen opposed to a renewal. I do not allude to the gentleman from Virginia, [Mr. Burwell] he does not consider it an objection that so much of this stock is owned by foreigners.

But let us, for a moment, suppose, that, on a dissolution of this bank, this capital goes out of the country; it is owned by proprietors who reside in England, where bullion is 15 per cent, above their paper currency, and if this \$7,200,000 should be sent to Europe it would drain nearly all the specie from the country. Unless it can be employed here to more advantage, it will, as an article of merchandise, leave the country for a better market. But it will, at any rate, be in the hands of those who may not, after the refusal to renew this charter, feel very solicitous to aid the operations of your Government, or relieve the distresses of the people, by sending this specie into circulation among us. We should require strong arguments, indeed, to induce us to adopt a measure which may at once drive out of the country, or lock up so large a portion of the specie capital. Whether it goes out of the country, or remains for a year inactive here, the effect upon the community will be the same. The great demand, and high price of specie, will depress the price of every kind of stock and every species of property; our wheat, cotton, hemp, tobacco, and every article of produce, must suffer a depression of at least 10 per cent. ---perhaps not find

a market at any price. The nation will be subjected at once to the loss of a sum at least equal to the amount of the whole capital of this bank. For the amount of produce and merchandise in the country may be estimated at \$100,000,000; a loss of 10 per cent. would be \$10,000,000, a sum equal to our revenues for one year. By whom is this loss to be sustained ? By the merchants ? No, it will fall upon the farmers, the manufacturers, and mechanics; your rich moneyed capitalists are safe, nay, they are the only men who will profit by such a state of confusion and distress.

When I advocate a continuance of the present system, I advocate the interest of the farmer, the mechanic, and even the laborer, who, alone, must suffer most severely by the experiment of breaking up this bank and your present system of paper credit. Of this we may all be convinced when too late to remedy the evil. The effect it may produce may be entirely different from what the opponents to this bill now believe. Instead of a blessing, it may prove a scourge and a curse to the country. Politicians, we all know, are liable to err in their calculations, and often mistake the real bearing and effect of their measures upon the community. The Turkish Government once devised and adopted an infallible expedient, as the rulers believed, to prevent a scarcity of corn, by prohibiting the exportation of this article. But the consequence of this favorite measure was a famine, want, and calamity, instead of plenty and happiness.

And are gentlemen, who are opposed to the renewal of this charter, quite sure what will be the consequence of stopping at once the operations of this bank ? I apprehend not. They all admit it will, for a time, occasion some embarrassment to our citizens and our treasury; but they differ as to the extent of the evil, and tell us that all the calamity is to be far outweighed by the blessings which are to follow; and, among other blessings which are to result, is the check which is to be given to trade. We are told that there is too much credit, and too much trade; that failures are continually occurring, and that, although the merchant fail, the farmer bears the loss. A single glance at the manner of transacting business in our commercial towns must convince

any gentleman that, when a merchant stops payment he is seldom indebted to the farmer. His credit contracts are with the banks and merchants in town; instead of purchasing produce from the farmer upon credit, the merchant obtains a credit at the bank, procures bills, and is, in this way, able to purchase from the farmer for ready money, and if the merchant fails, his creditors in town, not in the country, are generally the sufferers. By lessening or destroying bank accommodation, you transfer the credit from the city to the country. Then, if a merchant should fail, his creditors in the country, the farmers, would suffer; should this be the effect of putting down this bank, the agriculturist, who now sells his wheat, hemp, cotton, and tobacco, for cash, will be compelled to sell upon credit, and take the risk of failure from the banks and merchants to himself. Is this the manner in which trade is to be lessened by stopping bank credit ?

But it has been urged that we have too much paper in circulation. Admit it. The destruction of this bank will increase, not diminish, the quantity of circulating bank paper; and I consider the embarrassment which must immediately follow the closing of the concerns of this institution as the least of the evils the community will experience from a refusal to renew the charter. Congress may, indeed, prevent the operation of this bank after the 4th of March, but Congress can neither prevent a spirit of trade, nor subdue the passion for speculation. For, while we are debating the expediency of destroying this bank, in order to free the country from the mischiefs of an extended bank credit, we find new banks springing into existence in every direction. We have no less than live bills now on our table for incorporating this number of banks in this ten mile square district. And the gentleman from Virginia [Mr. Burwell] has told us, that these applications are an evidence of capital or of corruption; but I consider them rather as evidence of the destroying spirit of speculation, which threatens to stand upon the ruins of the United States Bank, till the country shall be overwhelmed with new emissions of paper from these new manufactories. The banks established by the State Legislatures will scramble for the privilege of filling the chasm to be made by the destruction of

the Bank of the United States. Already are they preparing for the patriotic endeavor. Our State legislatures are to be importuned to become bank-jobbers, and joint undertakers and co-partners in the enterprize. The profits are to furnish revenues sufficient to satisfy both avarice and ambition. Notwithstanding the provision in the constitution that no State shall "*emit bills of credit*," we find almost every State in the Union interested in banks, authorising corporations to issue bank bills, which, so far as they exceed the capital upon which they are issued, are in the nature of bills of credit. Several States own stock in these banks, and, as such stockholders are responsible for the payment of these bills; Pennsylvania, Virginia, and Vermont, are large stockholders in their State banks; New York and North Carolina have also an interest in some of their banks. The States cannot be restrained, nor is it to be wished that they should be prohibited altogether from incorporating banks. But what difficulties are we to experience in resorting to these numerous and conflicting institutions for the collection, safe-keeping, and transmission of our revenues. The deposits of the Government will render banking profitable to the favorite bank that receives them. The [aid of the Government](#) will make this bank superior in funds and credit to any of the others which do not share this solid [patronage](#). This will produce jealousies and collisions of interests between banks in the same State, and thus form cabals against the State and General Governments. It will not stop here, but will extend from State to State. If the States and State banks are to regulate trade in the article of paper money, they may prescribe the terms. To give the preference to their own paper, they may exclude that of any other State from circulation among them in the same way that the paper of unincorporated banks is excluded by some States, and bills of a certain amount from others.

The great commercial States will have in their power the paper of the small and agricultural States: for where there is most trade, there the most current bills will be the most valuable. The bills of New York and Pennsylvania, from the great trade and frequent intercourse between their capital cities, would be in greater demand than any other; the bills of

either State would pass current in the other, and this would give them a credit and currency superior to all other bills. They would of course drive the others out of the market. And, sir, it is possible that other banks may attempt to make up, in the quantity of their paper, the deficiency in its quality and credit, and all may overtrade their capital, discount far beyond their funds, until a general depreciation of their paper shall produce general failure, and universal distrust in all paper credit. It is the duty of the Government, if in their power, to avert such a state of confusion, to protect and preserve the country from such complicated ruin. But we are about to invite and precipitate this destruction by throwing away the only means we possess to prevent it. Stop this bank, and what check is there then to limit the discounts of all other banks ? They may issue paper to any amount and without funds to redeem it. There may, and very probably will be, a common interest and feeling among them to uphold each other, until all shall deem it advisable to fall. Hitherto the Bank of the United States, by its large capital, and the amount of its specie always on hand, has confined the discounts of other banks to certain limits, and compelled them to observe some proportion between their loans and actual funds. And, in this way, it has served as a barometer to ascertain the credit of other banks; as a regulator to keep them within such bounds as might be safe to the community. But take away this regulator, and the other banks may go on without fear or restraint to loan millions, without having a dollar in their vaults, until all will be reduced to bankruptcy, as we have already witnessed, in some parts of New England. We have been told, by gentlemen, that this bank has been the cause of the excess of bank paper, which has prevailed in some of the Eastern States. This I deny. What has been the conduct of banks in that quarter ? A considerable number of banks were established in the interior of Massachusetts and New Hampshire, and they went on to issue their bills to a great amount, without regard to their actual funds, and without any specie to redeem them. And had these bills circulated only in places where banks were conducted in a manner equally loose and unprincipled, the imposition would not have been

readily detected; but when these bills appeared at the Branch Bank of the United States, their real value was tested; they were returned, and the system of banking without specie or capital was broken up and destroyed. It will hardly be contended that our revenues would have been perfectly secure in these banks. And what assurance have we that they will be more safe in the others ? The Government of the United States cannot limit their discounts, inspect their books, or ascertain the state of their funds, or the principles upon which they act. It never can be seriously insisted, that it would be advisable to deposite the public moneys in this manner. It would be offering the revenues of the Government as a bounty for bank factions, and bank frauds. And why shall we be driven to make these dangerous, ruinous experiments ? We experience no hardships, no real difficulties growing out of our present system. If we continue it, none are to be apprehended. We shall preserve a paper medium, well known and long approved, with which the people of this country are well satisfied: for not a single remonstrance has been offered against continuing the operations of this bank, whilst thousands of petitioners have solicited Congress to renew the charter. Nothing, but considerations of the most imperious nature, should induce Congress, at this time, to refuse a renewal of this charter, and thus compel the extensive moneyed operations of this company to stop at once. The situation of the country is, at this period, peculiarly unfavorable, if not unequal to such an operation. But a small amount of specie in circulation, and the course of exchange continually lessening the quantity, draining it from the country; a large portion of the merchant's property seized in Europe; our treasury nearly exhausted; a non-importation about to be adopted; our revenue to be thus cut off; our army and navy expenditures to be increased; and, in this state of our national affairs, we are about to destroy all confidence in paper credit; to adopt a measure which must produce general disappointment, failures, and bankruptcy. However unconcerned and secure some gentlemen may feel about the consequences which may result from such a state of things, I cannot but contemplate them with the most fearful

apprehension. Can the people extend their confidence to the wisdom and expediency of measures which, instead of promoting the general welfare, produce general distress ? Why, sir, we seem to cherish as little regard for the opinions of the People, as if they had nothing to do with the Government.

But the remedy for all the evils growing out of this breaking down measure, is to be found, we are told by some of its advocates, in the establishment of a new national bank upon the ruins of this. The country is to be subjected to the spasms and throes of death and birth, at the same instant, in order to preserve, by this bold practice, its constitution. This is a refinement in State quackery, which must prove fatal to the patient.

Are the advocates for a national bank quite sure that they could obtain a law of Congress for its establishment, if the United States Bank were out of the question ? I apprehend not. Many serious, if not insurmountable difficulties, would be found to exist. When an increased demand for money should have rendered it scarce, it would illy comport with that discretion and intelligence which ought ever to distinguish the proceedings of Congress, to increase the scarcity of this article, by enlarging the immediate demand for it. While \$24,000,000 would be employed in closing the concerns of one bank, \$30,000,000 are to be called for to commence the operations of another. This would be levying a requisition upon all the circulating medium of the country at once. It would create a demand which could not be satisfied. If this objection could be removed, there are others still stronger to be obviated. It would be found difficult to convince the States concerned in banks, that their interests are to be promoted by a great rival bank, with a capital and ability equal to the management of all the banking business in the country. Will the great commercial States of Massachusetts, New York, and Pennsylvania, accede to this measure ? They will not, unless they disregard all the profits they might derive, by uniting to give credit and currency to the paper of their own banks, unless they neglect to improve the advantage they would in such case have over the other States. If some States now recommend to their representatives to oppose a renewal of

this charter, would they be less attentive to their own interests, and more sparing of their advice, when a national bank should be attempted ? No, sir. Nor would their recommendations be less regarded than upon the present occasion. If a bank with but \$10,000,000 capital, has awakened State jealousies, and roused to action State interests against it, what are we to expect when a new bank of \$30,000,000 shall be proposed ? That such an institution could be established without opposition ? No. It could not succeed against the opposition it must and would encounter. Put down the Bank of the United States, and, however essential an institution of the kind may be found, either to furnish a circulating medium, which shall pass current throughout the United States, or aid in the administration of the finances, the Government will not have the power to establish it. A law for the purpose, would never be sanctioned by a majority of both Houses of Congress. And, if we cannot continue the present bank upon any terms, no other ought ever to be authorized by Congress. For to what a state of things might a new national bank, with twenty or thirty millions capital, reduce the country at the expiration of twenty years from this time ? Its stock might get into the hands of foreigners, or be owned by those who would be found in the opposition to the administration; and surely, this would furnish reasons as powerful for putting down the national bank, as the Bank of the United States; and the country would be compelled to submit to another general shock, and, perhaps, destruction of paper credit. If we have not stability and discretion sufficient to continue and support such an institution, we most certainly should not undertake to establish it. For we are exposing the country to alternate affluence and penury; making experiments ruinous to the people, and destructive to the Government.

Some gentlemen tell us that this corporation can close its concerns without occasioning any embarrassment in the community. If the trial is to be made, I most sincerely wish they may not be mistaken; but to me it appears utterly impracticable. The gentleman from Virginia [Mr. Burwell] seems to think that the shock will be slight, and scarcely

perceivable; that this angry cloud will be disarmed by the conducting powers of the State banks. But can he assure us, that such will be the result from any actual experiments which have ever been made in this branch of philosophy ? I believe not. And it is to be apprehended, that, even if this cloud should disappear, clouds of discontent and faction will succeed, and may soon be seen hurrying and chasing each other over the political firmament of America, until the tempest comes on, which shall close forever the prospect of our united strength and happiness.

The times are dangerous for national experiments. When we look around us, we find the political passions of man rising to madness; long established Governments breaking up their strong foundations, and the world almost deluged with blood and warfare; we alone, stand upon the narrow isthmus of peace and prosperity. And is it for us to complain; to be discontented with the pre-eminent happiness we enjoy; to hazard our present enviable condition upon the doubtful result of this great and sudden change in the administration of our national finances ? No, sir. It becomes us to beware of innovations; to weigh well the consequences of embracing any new system, or abandoning an old one. But, sir, I will not detain the committee longer. I have already occupied more of their time than I intended; but a sense of duty has compelled me to state my opinion at length upon the important question before us. And, if the charter of this bank is not to be renewed, or continued upon any conditions, I am ready to hope, that my apprehensions of the effects that the refusal will produce in this community, may prove groundless; that the dissolution of this institution may not be the organizing of ruin to a considerable portion of the country.

Tuesday, January 17th 1811.

MR. SEYBERT.⁴--- It may be said that this subject has been exhausted, by the discussions of the ablest politicians of our country. I will premise, the remarks which I shall offer, are intended solely to justify the vote which it is my intention to give on this momentous occasion.

The question pending the United States' Bank has excited a peculiar interest throughout this nation, more especially in our seaports. The dissolution of this institution, which, from its limitation, will expire on the fourth of March next, has been portrayed in colors of the darkest shades, and the distresses which many maintain will be consequent to that event, call seriously for a fair and deliberate investigation. I hope, sir, I shall be pardoned for imposing on the patience of the House, when it is recollected that the community which I represent, have employed four-tenths of the capital stock of the United States' Bank. If evil consequences are to attend the dissolution of this establishment, or if beneficial results proceed from its continuance, in either case I must feel myself essentially interested. It is, therefore, my wish, to be distinctly understood, upon the important principles which have connexion with the great question now before us.

At the last session of Congress, I presented the memorial of the president, directors, and stockholders of the Bank of the United States; at that time I entertained no positive opinion on the subject; the discussions which took place in the committee to whom the memorial was referred, necessarily, as a duty on my part, excited that attention which the importance of the question imperiously demanded. Under circumstances of doubt, I voted in favor of reporting a resolution in support of the bank, for the purpose of giving to the establishment every chance which reason could urge; at

4 Adam Seybert (1773-1825), Pennsylvania Democratic-Republican; studied medicine and mineralogy.

He wrote in 1816---

"Many persons viewed a dissolution of the late Bank of the United States as a national calamity; it was asserted that a general bankruptcy must follow that event. The fact was otherwise: every branch of industry continued uninterrupted ---no failures in the mercantile community were attributable to that occurrence."

the same time reserving to myself the right to pronounce a final decision, according as policy and expediency, but more especially as principle should dictate. I will admit, sir, that this is not the time or place to institute the general inquiry, whether banks are or are not, beneficial to a nation? Because, whether the charter of the United States' Bank be renewed or not, the several States, who have the unquestioned authority to incorporate bank establishments, have already created many, which it is not in our power to control. I do not hesitate to declare, though many persons in the United States are decidedly opposed to a banking system, under every possible circumstance, I am not of this class. Experience has proved, in a manner very satisfactory to my mind, the advantages which are derived from banks, when they are impartially directed, and when the accommodation afforded by them is prudently employed; the great difficulty seems to be to confine the system within its proper limits. I understand the proposition as applicable to the agricultural, manufacturing, and commercial interests of the United States.

For my proofs of this proposition, I will not rely upon the famous Bank of St. George, at Genoa, whose authority, by a gentleman from New York, (Mr. Fisk) has been considered of much weight. I will recall to the mind of my friend, the remark of an intelligent traveller, who, when he visited this bank of antiquity, exclaimed, "Here lies concealed the enigma, whether the bank possesses millions of millions, or whether it is indebted millions of millions!" He concludes, upon this important secret rests the safety of the State. Unhappy State, say I, whose safety depends upon a secret concealed within the vaults of a bank. Perhaps, to a development of this secret, may we attribute the present servile condition of the people of the once far famed and powerful Republic of Genoa.

I am one of those who do not entertain fears in consequence of foreigners becoming the stockholders of our banks; provided, on all occasions, you deny them the privilege of voting either directly or by proxy. I would even go so far as to prohibit their being original subscribers to any stock which may be created in our territory. The States do not object to a foreigner holding the stock of their banks. Any

political consequences which can arise from such an interest, will exist, without the General Government having power over them. For the present, I am opposed to the exclusion of foreign capital from our country, because it is not established that we possess a surplus of our own, and that the introduction of more from abroad depresses that which is immediately the property of our citizens; the prices which are at present paid as the interest for a borrowed capital, convince me that it would be impolitic, at this time, to adopt the principle of exclusion.

Though I have admitted, that, under certain specific provisions of the law, foreigners should be permitted to hold the stock of the banks of the United States, it is not thence to be inferred, because they have become the stock holders, they are to be confirmed, from time to time, in the exercise of an exclusive privilege in our country.

Sir, I am decidedly opposed to a prominent, and what to me appears to be a very dangerous feature in the bill now under consideration. I allude to the 8th section, which admits of an increase of the present capital stock of the bank. If you adopt this provision, you will thereby create an Herculean power, which will have at its mercy all the minor institutions of the States; thus constituted, it can oppress and destroy them, as whim or interest may dictate. The steps which have been taken preparatory to a dissolution of the present bank, it is said, occasion much embarrassment, and threaten with ruin many of our citizens. If the present capital of ten millions can thus affect society, who will pretend to accumulate present evils, or risk entailing misery on posterity, solely for the purpose of a temporary gain to the Government? In this question Pennsylvania is deeply concerned; she has several millions of dollars invested in her banks; this to her is a valuable source of revenue; upon this may she predicate much of her future prosperity; hence will she derive the funds requisite for future internal improvements; but if you fill up the blanks in this section with a considerable sum, all these prospects will be blasted forever; you will thereby destroy the tree, from whose ramifications were to emanate the blessings of peace and the sinews of war. Those of her Representatives

who may deem it politic and constitutional to vote for a continuance of the charter of the United States' Bank, ought surely to oppose any increase of the present capital. We have been told, that that which now exists, has been found sufficient for all purposes, at a time when our commerce was much more extensive than we have reason to suppose will soon again be the case.

If, as some say, the bank, by its capital, is to facilitate the fiscal operations of the Government, I am decided this should never be greater than what will be barely sufficient for this purpose. If you go further, you place in the hands of the Government an engine which may destroy the freedom of this nation. We are further told, that, in case of war, the Government may derive advantage, in the form of loans, from the bank. Admitting this to be the fact, it is very evident, under the uncertainties of a war, the demands of our merchants upon the banks will diminish, so that the bank capital already created throughout the Union, may be very readily had for the exigencies of the State. If a greater sum shall be found to be necessary, the patriotic zeal of your citizens will prove itself all-sufficient to supply your wants in a cause which will be deemed just and honorable by the nation.

I am also opposed to the United States having the right, in any manner, to appoint any of the directors of the bank, not so much on account of any influence which the Government might derive from such appointment, as to prevent ruinous consequences to all who may be concerned. Who will such directors generally be ? Certainly persons who need the aid of the banks, for none others would make application for the appointments. When they are appointed, they would be subservient to the views of such of the directors as are chosen by the stockholders; in their places they will lose sight of the public welfare; they will be interested by the accommodations which they may find necessary for their purposes; to obtain these, they will yield to their associates. Instead of being the guardians of the public treasure in case of danger, they will remain silent, until a spontaneous explosion of the bubble solves for the world the important secret of the insolvency of the institution. Sir, notwithstanding many

arguments may be adduced in support of a banking system, no degree of importance, whatever, whether derived from the facilities offered to the Government by bank establishments, or from the considerable sums which may be thereby had for the treasury, in consequence of sales which may be made of the stock belonging to the nation, or of the bonus to be given, shall induce me to vote in favor of a measure which is not grounded upon strict constitutional principles.

The history of the banks in our country informs us, that the one usually termed the Bank of North America, was the first establishment of the kind which received the sanction of the Government. This institution was incorporated by an act of Congress, in the month of May, 1781, under the authority of the "Articles of Confederation." The present Bank of the United States was incorporated by an act of Congress, on the 25th February, 1791, during the operation of the present Constitution of the United States.

Without an attempt to examine every hypothesis which has been or which might be proposed, respecting the constitutionality of the principle, I will content myself with a statement of the case, such as it appears to my mind. The first public act which I performed, as a member of the Congress of the United States was, to *swear, solemnly*, that I would support the Constitution of the United States. It therefore is my duty to examine and consider its precepts, according to the best of my ability.

The "Articles of Confederation" and the present Constitution of the United States, do not differ, as regards any power delegated by the States to Congress, touching charters of incorporation. I can never persuade myself that the Constitution was intended other than to have a definite meaning; or that it was ever contemplated to speak an equivocal language; ambiguity arises solely from the misconceptions of its interpreters. It is very plain and of easy comprehension, especially as it relates to the present question, since it is totally silent on the right to create corporations ---its wisdom is further illustrated by the special provision for the only exclusive privilege which is consistent with a free and equal government, and that is in favor of genius.

The powers delegated by the States are special and defined, and it is expressly declared by the Constitution, that "the powers not delegated to the States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." This language needs no interpretation. I cannot for a moment permit myself to suppose, that the patriots who were tested during the long continued uncertainty of the most important events of our revolutionary period, and to whom was ultimately assigned the right and power to construct the instrument which is to guide us in the political labyrinth -- that they intended this, their great work, should alone be explicable by that refined reasoning, to which common sense is a stranger, I never can admit. Surely, that which they framed for the good and security of every individual in the nation, must be expressed in a manner to be understood by ordinary men, and those whom it was intended to direct. Sir, if simplicity was not originally contemplated by the framers of the Constitution, why the imposition on the people in publishing it to the world ? Was it not a prodigal waste of labor and materials, to furnish every citizen of our country with a copy of that which can only be understood by professional men, or such as are eminently skilled in scholastic research ? It had better remain a secret concealed amongst the musty rolls in the archives of State, than be a puzzle for mankind. As long as this instrument is preserved pure and untarnished, it will receive a becoming respect from your fellow-citizens ---it will be regarded as "the stupendous fabric of human invention." Remember, the present argument, in several important points of view, affects posterity in common with ourselves. You had better commit the unintelligible jargon to the flames, than, by the agency of construction, neutralize wisdom by folly. Sir, if we have a constitution which the people cannot understand, I then say, cut the original into slips, and provide the means for a better; or if that is not to be done, and we are to be ruled by the iron hand of power, in that case, as one of the American people, I will pray you to be graciously pleased to grant a plain *bill of rights* for our better government.

If we look back and attentively view the occurrences which took place when the law incorporating the present Bank of the United States was enacted, we shall find our reasoning supported and confirmed by many important circumstances; we shall then perceive that the act of incorporation was opposed on constitutional ground, by men who were and continue to be esteemed for their talents, political skill, judicial knowledge, probity, and patriotism, and it has been admitted that the arguments formerly urged are unanswerable. That the power to create corporations was never intended to be ceded on the part of the States, is proved beyond all manner of contradiction; for we are told by the highest authority, by one who was a member of the General Convention, that it had been proposed to cede to Congress the power to create corporations, and that the proposition was rejected, after a deliberate discussion. In my opinion, this decision is in proof of the sagacity and wisdom of those who made it; it was highly justifiable to retain this power to be exercised by the States; because corporations are generally founded on circumstances which are entirely local; as such they can be better understood by the Legislatures of the respective States, than by that of the General Government,

The experience of every session proves, that the decisions of Congress vary with the men who, at different times, compose that body; therefore, the act of February, 1791, can have no force in settling the principle contended for.

I have heard it urged that the States have recognised the constitutionality of the United States' Bank, by their laws. I know of no law in any of the States which declares this charter constitutional; were it even proved that several of the States had published this declaration, with me it would signify nothing, unless the sanction of two-thirds of the States was thus had. On a former occasion, several of the States were induced, from peculiar circumstances, to relinquish, for a time, their right in favor of a particular case --I allude to the first establishment of the Bank of North America. If this had been intended to decide this very important question, without any reservation of their power in other cases, they would have expressed it in the most positive and unequivocal manner.

Sir, it may be asked, how did the Congress, whilst acting under the "Articles of Confederation," incorporate the Bank of North America, though their powers were no more extensive than those of the present Congress ? We shall not lose by this investigation ---they declared, that "the exigencies of the United States rendered it indispensably necessary that such an act be immediately passed;" and, at that period the Board of War confessed they had not money sufficient to pay the expense of forwarding an express to the Commander-in-Chief of the army ! Notwithstanding such urgent necessities on the part of the General Government, they were too conscious of the rights of the States, to attempt an usurpation of authority, or to pretend to force this act without their sanction; accordingly, we find the resolution by which this bank was established, followed by another, which recommended to the Legislature of each of the States the *necessity* to pass such laws as *they* judged requisite for giving the ordinance by which the subscribers of the Bank of North America were incorporated, its full operation; every provision in the charter of this bank, to have full effect, was recommended to the Legislatures of the several States, for their approbation. ---See *Journals of Congress* for 1781, vol. 7th, pp. 257 and 258.

It is a well known and an important fact, that the subscribers to the Bank of North America did not rest satisfied of the authority of Congress to incorporate them: subsequently to the original act of incorporation, they accepted from the Legislature of Pennsylvania a charter, by which their privileges were very much abridged.

Some maintain, the States having made it penal to pass counterfeits of the notes of the United States' Bank, is in proof of their recognizing the constitutionality of the institution. No one will pretend, that these laws were intended other than to guard the people against fraud; these statutes were enacted without any connexion with, or reference to, the principle upon which the original act was founded. It is but too well known, notwithstanding these salutary provisions, that counterfeit bank notes, of every denomination, are in daily circulation. I will ask, what would be the case if such laws had not been passed by the States ? Sir, if it requires all our care

to prevent an inundation from such bank paper, as is acknowledged to be genuine, for Heaven's sake, do not risk the security of the people, by an indirect sanction of such as is known to be spurious.

I have often heard the constitutionality of a national bank defended, upon the ground of its being *absolutely necessary* to the fiscal operations of the General Government. A friend from New York, [Mr. Fisk,] said he "would demonstrate, that this institution was *indispensably necessary* to the fiscal concerns of the Government." I confess if he could do this, he would go far to remove an important difficulty. If there be higher authority, whereon to rely for his proofs, than the officer who is at the head of your Treasury Department, he might have succeeded. I pledge myself upon the statements of this officer to demonstrate, that this bank is not even *necessary* for the fiscal operations of the Government. Upon this plea, it is attempted to be justified by the 17th article of the 8th section of the Constitution of the United States, which gives to Congress the power "to make all laws which shall be necessary and proper for carrying into execution" the several specific powers delegated to Congress by the States. I never did doubt for a moment, the convenience of a bank, to the moneyed transactions of the Government.

I was often induced to believe, that a bank, *sanctioned by the General Government*, was *necessary* for these purposes. I am now confirmed in a very different sentiment by the Treasury report, made the third day of January, 1811. In the 11th page of that report, we are told, it is one of the duties which are assigned to a clerk in the Treasurer's office, to keep a "bank cash book, wherein an account is opened with every bank in which the United States have money deposited. In 1798, the number of these were *five*; they are now augmented to twenty." The establishment, constituting the United States' Bank, and its branches, consists, in all, of nine banks; consequently, by the statement just made, it is proved the Treasury Department has been doing business with eleven banks, other than those sanctioned by Congress. The same report states, that this business is transacted in all the banks upon precisely the same plan. We have never been told of

any losses having been sustained in any of them. Why, then, pretend, that it is impossible to transact this business through the agency of the State banks, when we have the best authority for asserting, that this has been done already in a majority of cases, with the greatest success, facility, and certainty ? That no advantages, which are peculiar, can be derived to the nation, from the United States' Bank, as respects the collection of the revenue, the safe keeping of its specie, or the transmission of its moneys from place to place, will be made evident by the same excellent authority. It is there stated, that considerable sums, to the credit of the Government, are deposited in the State banks, even in cities where the mother bank and its branches are situated.

On the 7th of January, 1811, very considerable sums belonging to the Government, remained in the Manhattan Bank of New York; the Bank of Pennsylvania, in Philadelphia; and the Bank of Columbia, in Georgetown, District of Columbia. As to the transmission of money, we are told in the same report, that the deposits in the Manhattan Bank arise from collections of the revenue in the States of Rhode Island and Connecticut; and that those in the Bank of Pennsylvania occur from the payments which are made for public lands into the banks of Ohio and Kentucky; from these, it is transmitted to the branch bank of Pennsylvania, at Pittsburg, and thence it passes to the Bank of Pennsylvania, in the city of Philadelphia, where it remains subject to the drafts of the Treasurer. From this we perceive, that collections and transmissions of money, for the benefit of the Government, are made without the aid of the United States' Bank, or its branches, and that through a considerable extent of country, from one extremity of the States to the other. After this, will any one pretend to urge the absolute necessity of the United States' Bank ?

It is said, all agree that *banks are necessary* for the collection of taxes; but that of the United States is not absolutely necessary for this purpose, since these operations can be, and have been performed for the General Government, by the State banks. Sir, [I deny the position](#), and will maintain that for this purpose, no bank whatever is

required. I will ask gentlemen who maintain this doctrine, to name to me the banks which are employed to collect the taxes, which are levied by the States ? I know of none, and I believe it impossible to point out a single instance, where the States make use of their agency.

Sir, I will for a moment permit myself to suppose, notwithstanding the well founded objections to the establishment of a bank under the authority of the General Government, Congress shall nevertheless deem it expedient to renew the charter of the present United States' Bank, or establish, what some may fancifully reconcile to themselves, by the title of a national bank, it then becomes a question, how the States will receive the act ? Whether they cannot render its provisions abortive ? That many of the States are hostile to a bank, authorised by the General Government, is evident from numerous facts; for proofs we may refer to the acts of the Georgia Legislature, by which, the bank capital of the branch at Savannah, was made liable to taxation. North Carolina has taxed the capital of her banks -- the Legislature of New Jersey passed but a single act at their last session, that was to levy a tax on bank capital. No one can pretend that the disposition of Virginia or Maryland, is very favorable to a pretended national bank. I can state, upon the best authority, that it was a subject of consideration with the Legislature of Pennsylvania, during the last winter, to tax the capital of the mother bank in Philadelphia. They did not proceed, because they relied on the refusal of Congress to renew the present charter of the United States' Bank. The taxation of the capital stock of this bank is to be looked for on the part of the States in which the mother bank and its branches may be established; because, the States generally require a bonus, or in other words, they raise a tax from the banks, which they themselves have sanctioned; in many instances, the amount has been very considerable.

We cannot suppose the States will hesitate to tax the United States' Bank; because if they do, they will act unjustly towards such of their immediate citizens as have invested their capitals in the stock of State banks. A partial taxation is contrary to the spirit and letter of our constitutions. The States

having the right to tax the institutions, which you may sanction within their jurisdiction, they have it in their power to render inoperative the statutes which you may enact on this subject ---they may tax to an amount which shall equal the dividends arising upon the capital. Who can pretend, that banks will do business without the prospect of a handsome profit ? Thus disposed, the States may place the United States in a very unpleasant situation. Let us avoid every possible source of discord. The General Government may be reduced to the dilemma, either to relinquish a pretended right, or to pay tribute to the States, to permit them to exercise an authority which is unquestionably an attribute of sovereign power. This would constitute an epoch in the political annals of our country. I hope such absurdities will not be committed. We may avoid them, by a strict compliance with the principles of the constitution of the United States.

Friday, January 18th 1811.

Mr. Burwell's motion to strike out the first section being still under consideration.

MR. PORTER⁵ spoke in favor of it, as follows:

Mr. Chairman: As this bank has excited so extraordinary an interest in every part of the United States, and particularly in the State which I have the honor to represent; as I am apprehensive, from what took place yesterday, that I shall be found, on this question, in opposition to a majority of my colleagues; and, (what will always be an imperative motive with me) as I think this bill aims a deadly blow at some of the best principles of the Constitution, I feel it my duty to state to the House the grounds on which I shall be constrained to vote for striking out the section now under consideration.

I acknowledge that I had not, until lately, paid any particular attention to the question of the constitutionality of this institution. I stand, therefore, in this respect, on safer ground than the respectable member from North Carolina, (Mr. Macon) for I have no reason to suspect myself of any long-rooted prejudices on the question. The Bank of the United States was established at a time when I was not in the habit of troubling myself with such questions. I had been accustomed to think of it as an institution, the constitutionality of which was conceded by common consent. But, sir, when the question was again stirred, I felt it my duty to give it a thorough investigation before I should sanction it by my vote. I have given it, if not a thorough, at least a candid and impartial examination; and the result has been a full conviction that we have no right to incorporate a bank upon the principles of the bill on the table; or, rather, upon the principles of the original charter, which this bill proposes to renew. The ground of my objection is, that it assumes the exercise of legislative powers which belong, exclusively, to the State Governments.

I shall not touch the question of the expediency of this bank, much less the expediency of banking generally. If I were

competent, which I confess I am not, to the task, I should think it a very unprofitable one, to follow the gentleman through all the mazes of the banking system -- a system, sir, about the various and important operations, and effects of which, on civil society, aside from a few obvious truths which it furnishes, I have found that those gentlemen who have professed to understand them best, have differed most. As I propose to confine myself to the constitutional question solely, I hope I shall be allowed to take a little broader range on this point, than has been taken by the gentlemen who have preceded me.

I am aware how ungracious constitutional objections to the powers of this House are with those, (and there are many such) who believe that the powers of the Federal Government are, at best, too contracted, and who would be glad to see all the State rights merged and sunk into a consolidated government. Whatever may be my speculative opinions on this subject, I can never be influenced, by motives of expediency, to swerve from my allegiance to the Constitution. This sentiment is indelibly fixed on my mind, and I trust it is a common one to the members of this Committee, that, in adhering strictly to the obligation we have taken, to support the Constitution of the United States, we not only perform a sacred duty to ourselves, but we render a better service to the real and permanent interests of our country, than we could possibly render by a departure from that obligation, even though that departure were to avert so serious a calamity as a general bankruptcy; a calamity, which, in order to alarm the timid, has been held out as the inevitable consequence of a refusal to renew this charter.

I should be surprised at the general acquiescence which seems to have been yielded to the constitutionality of this institution, did I not believe that others had been as superficial in their examination of the subject as I had myself. When objections are made to the constitutionality of a law, the people, in the cursory views which they are accustomed to take of such objects, are apt to adopt, as the tests of its constitutionality, the powers of the State and Federal Governments, collectively; and if they find nothing in the law

offensive to the principles of civil liberty, nothing uncongenial with the spirit of a republican government, they rest satisfied, and do not trouble themselves with nice distinctions between the powers peculiar to the one or the other of these governments. Such reasoning would, however, ill become the sagacity of this House.

One of the most serious dangers with which our Government is threatened, and it is a danger growing out of the very nature and structure of the Government itself, consists in its tendency to produce collisions between State and Federal authorities. The Federal Government, as was observed by my learned colleague, [Mr. Mitchill] is, *imperium in imperio*, a government within a government; and the misfortune is, that there exists no friendly third power to decide the controversies which may arise between these two great, independent, and in many respects, rival authorities. The public peace must be kept, if kept at all, by the conciliatory dispositions of the parties themselves. As then we have a common interest in the preservation of both these Governments ---as we are as well the subjects of the *imperio* as of the *imperium*, we ought to act with great circumspection and delicacy in the assumption of powers which do not clearly belong to us. It is better to forego the exercise of powers to which we are entitled, if the exercise of them is not very important, rather than hazard the assumption of doubtful ones, the fatal consequences of which my honorable friend from Virginia. [Mr. Burwell] has so justly deprecated.

The great line of demarcation between the powers of the State and Federal Governments is well understood. The powers of the State Governments extend to the regulation of all their internal concerns, those of the Federal Government to the management of all our external relations ---external, as regards the individual States, as well as the States in their collective capacity. The general ideas upon which our republic is founded, are these: that small territories are better adapted to the successful administration of justice than large ones. In a Republic, where the people are the sovereigns and source of power, it is important that, in order to enable them to execute this power discreetly, they should possess correct information

in relation to the character and conduct of their rulers, and in relation, also, to the character of the measures which they pursue, or ought to pursue; and this information is better attained in a small than in a large territory. The individual States, have, therefore, reserved to themselves the exclusive right of regulating all their internal, and, as I may say, municipal concerns, in relation both to person and property. But a single State maybe inadequate to its own protection against foreign violence; it may also be unable to enforce the observance of proper rules and regulations for carrying on its foreign trade and intercourse. The confederacy of the States is, therefore, formed for the purpose of attaining these two objects, namely, the regulation and protection of the trade and intercourse of the States with each other, and foreign nations, and their security against foreign invasion. It has some other objects in view of minor consequence, and immediately connected with these principal ones. The Constitution of the United States is the basis of the confederacy, and it is only necessary to read the Constitution to perceive that it is nothing more than a delegation of specific powers for these specific purposes, and that the general sovereignty of the States over their respective territories, is expressly retained by the States.

But, sir, independent of these specific powers and duties of the Federal Government, it has another and distinct set of powers and duties to perform and execute. The national domain, as it has been called, embracing the lands acquired by the revolutionary conflict, the lands since purchased of foreign nations, and the lands ceded by the several States to the General Government, belong to the United States, in their federate capacity; and no individual State, as such, has any claim to, or jurisdiction over them. As to these lands, the powers of the United States are sovereign, independent, and complete, and the Congress of the United States is the only legitimate authority for the exercise of this sovereignty. The powers of Congress, then, in relation to these territories, include the powers of both the Federal and State governments, in relation to the States.

I have adverted to this branch of the powers of the Federal Government as a means of dispelling the obscurity

which has been thrown over the constitutional question, to which I shall soon come, by confounding the powers of Congress over the States, with their powers over the Territories. Arguments, to which I shall have occasion to advert, in the course of my observations, have been used to justify the exercise of particular powers within the limits of the States, from our acknowledged right to, and practical exercise of, similar powers within the Territories.

In discussing constitutional questions, then, we may lay down these axioms:-- That in relation to the Territories, the powers of Congress are supreme and exclusive; that in relation to the States, they are specifically defined and limited by the Constitution -- and that we have no right to exercise, within the limits of a State, any power as resulting from the general rights of sovereignty; because that sovereignty belongs to the States and to the People, and not to the Federal Government. To show that these two last positions are correct, I will read the tenth article in amendment of the constitution:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or the people."

As then, the incorporation of this bank involves the exercise of legislative powers within the jurisdiction of the States, in relation to the rights of property between the citizens of those States, and as no power to incorporate a bank *eo nomine*, is to be found in the Constitution, it would seem sufficient for us to rest the argument here, by a mere denial of the power, and to call on the advocates of the bank to show its constitutionality. An attempt to prove this constitutionality has been made -- not, however, sir, by arguments advanced by gentlemen on the other side of the House in their places, (for they have, so far, observed, and I understand that they will continue to observe, a profound silence on this question) but by arguments which have been gratuitously introduced, by the agent the bank. I allude to the pamphlet, which has, within a few days past been printed and distributed among the members, containing the celebrated argument of General Hamilton, "on the constitutionality of a national bank." As that pamphlet is *de facto* if not *de jure*, before the Committee,

I will, if the Committee will indulge me, attempt to examine some of the principal arguments contained in it, and I will also notice some additional ones, advanced by my honorable friend and colleague on my left. [Mr. Fisk] In the course of the observations which I have to submit, I shall, without doubt, repeat arguments and remarks made by the gentlemen who have preceded me, and others which are familiar to the members of the Committee. My excuse must rest in the difficulty of taking a connected view of the subject, without such repetitions. If I shall be so fortunate as to throw a single new ray of light on this important question, I shall feel amply remunerated for my trouble, and I shall think the time of the Committee not altogether misspent.

The first argument in this pamphlet is founded on the *sovereignty* of the powers of Congress. The Federal Government is said to be sovereign *as to all the objects for which that Government was instituted*. A sovereign power includes, by force of the term, a right to all the means applicable to the attainment of the ends for which that power is given; and therefore Congress may, in virtue of their sovereign power, create incorporations for attaining the ends or objects of these powers.

This argument is founded on what the logicians call *petitio principii*, or *begging the question*. The proposition that the Government is sovereign, is assumed, to prove that it possesses the attributes of sovereignty: or, in other words, the fact of sovereignty is assumed, to prove that sovereignty. If the position that the powers of this Government are sovereign, as to all the objects of them, be proved, I will concede the consequence, to wit: that we have a right to establish corporations to attain these objects. But I deny the fact of sovereignty. The acts of Congress, it is said, are declared by the Constitution to be the supreme law of the land: and the power which can make the supreme law of the land, is, necessarily a sovereign power. But deny that this is a correct definition, or exposition of sovereignty. It is not the high nature of an act, nor the authority of the act, that stamps the character of sovereignty on him who performs it. The sheriff of a county, who puts a man to death, under the sentence of

the law, executes an act of as high import and authority as human power can execute: and yet the sheriff of a county is not, therefore, a sovereign. His authority is a mere delegated authority ---his act is a mere ministerial, mechanical act. The idea of sovereignty imports the exercise of discretion ---of judgment--- of will. It is of the very essence of sovereign power, that you may execute that power, or not execute it --- that you may execute it when you will, and how you will. A sovereign power, as to any object, includes a right to any means, and all the means applicable to the attainment of the object.

But, sir, do Congress possess *sovereign powers*, or, what is the same thing, *discretionary means*, as to the attainment of the objects of this Government ? No, sir. The Constitution is not a general authority to Congress to attain the objects for which the Government was established; but it is an enumeration of the particular powers, or means, by which, and by which only, certain objects are to be accomplished. If the powers of Congress were sovereign, they would of necessity comprehend all the means applicable to the attainment of their objects; but, inasmuch as they are specific and circumscribed, that very circumstance proves that they are not sovereign.

The People of the United States are the true sovereigns of this country. From them all power emanates, and on their will all the authority of this Government depends. The powers of the Federal Government are mere delegated chartered authorities; and in the exercise of them we are tied down to the letter of the Constitution. We have, to be sure, a certain latitude of discretion allowed us, within the letter and pale of the Constitution; and, so far, we may be said to possess a sort of limited, qualified sovereignty. But the Constitution is the standard by which to measure the quantum and extent of our sovereignty. And our sovereignty, which is the result of the powers given in the Constitution, is not the standard by which to measure the Constitution. The Constitution is the true bed of Procrustes ---and our sovereignty, however unwillingly we may yield it, must be the victim.

Another argument, which is rather an argument to the favor, than to the right of this bank, is, that it is an innocent institution; that, although its erection involves the exercise of legislative powers within the States, it does not abridge, nor affect the rights of the citizens, as secured to them by the laws of those States. A corporation, it is said, is a fiction of the law ---a mere political transformation of a number of individuals from their natural, into an artificial character, for the purpose of enabling them to do business to better advantage, and on a more extended scale; but, that, when this political association, this legal entity, is once formed, it becomes subject to the laws of the State in which it happens to be placed.

I know, sir, that there is nothing formidable in the abstract idea of a corporation. It is a mere phantom of the imagination; invisible, intangible, and, of course, innocent. But, sir, when the legal effects of this incorporation are, to invest the individuals whom it associates, with privileges and immunities to which they were not before entitled, when this legal action is interposed to shield certain individuals from the liabilities to which they would be subject as ordinary citizens, it then becomes a matter of important and serious consequence. What are some of the legal effects of this incorporation ?

One of its most obvious and distinguished characteristics is, that it exempts the private property and persons of the stockholders from all liability for the payment of the debts of the company. By the laws of every State in the Union, every man is, I believe, liable for the payment of his debts, to the full amount of his private fortune; and, in case that fortune prove insufficient, his personal liberty is at the disposal of his creditor; at least, to a certain extent. Is not, then, the exemption from these liabilities an important immunity ? Is it not an exclusive privilege secured to the stockholders of this bank ? Assuredly it is. I know it has been said, that a number of individuals may, by a private association, secure to themselves all the advantages of an incorporated company; that, by forming a common fund or stock, upon which to do business, and issuing notes chargeable upon that fund, they may exonerate their persons and private property from all liability for the payment of the debts contracted in that

business. I am no lawyer, sir; but if the law be what it is said to be, and what I believe it to be, *summa ratio*, then I pronounce this doctrine not to be law; for nothing can be more preposterous in principle than to say, that a man may, by his own act, avoid the force of an obligation, which the law has made universal and unqualified. If a man owes a debt, acknowledges he owes it, and has received a consideration for it; the law has prescribed the nature and extent of his liability to pay it; and it is not for him to say that it shall only be paid out of a certain fund, or particular part of his property, and no other. When men contract a debt jointly, the legal obligation to pay it extends as well to the persons and separate property of the individual partners, as to their joint property.

Another feature of this incorporation is, that it authorizes the stockholders to take usurious interest for their money. By the provisions of the law, the bank may issue notes and make discounts to double the amount of their capital stock; and, in addition to that, to the amount of any moneys which may happen to be deposited in their vaults for safe keeping; and this, too, independent of the debts created by these deposits. The bank then may, and in fact, in many instances, does, draw an interest on three or four times its capital. Every State in the Union has laws regulating the rate of interest, and, in most of the States, this rate is fixed at six per cent. a year. By these laws, it is made penal for a man to receive more than six per cent. interest for the use of any sum of money, which, by a loan, he puts at hazard, and the use of which he deprives himself of.

Now, sir, this bank is permitted, contrary to those laws, to draw an interest on twenty or thirty millions of dollars, when, in truth, the whole extent of its responsibility, the whole sum which it puts at hazard, and the use of which it foregoes, is only its original stock of ten millions. In answer to this, it will be said, that an individual may, by issuing notes to an amount greater than his property, legally receive an interest on a capital which he does not possess. But, it must be recollected, in case of the individual, that, although he may not, at the particular time, possess a property adequate to the payment of his debts, yet, that all the property which he may

subsequently acquire, will be liable for the payment of those debts. And, what is more, sir, his personal liberty is always put in jeopardy. In this point of view, the liability and the hazard of the individual may fairly be said to be co-extensive with the whole amount of the capital on which he draws an interest; and which is often the case with the bank.

This bank incorporation possesses other qualities at war with the laws of the several States; one of which is, that it authorises stockholders, who may be foreigners, to hold real estate.

But, sir, I will not detain the committee any longer on this part of the argument, for this institution cannot be said to be innocent, as regards the rights of the States, when its effects on the rights of property are to exonerate the stockholders from some of the most important responsibilities which the laws of the several States have provided for the payment of debts; and when it authorizes the taking of usurious interest. I lay it down, then, as a position which cannot be controverted, that the granting of this charter is not only an interference with the municipal regulations of the several States, in relation to the rights of property, but that it is an infraction of the rights of individuals as secured by those regulations.

But, it is contended, that a right to incorporate a Bank of the United States is delegated to Congress by the Constitution: and five or six different provisions of the Constitution are referred to as giving this right. It is said, that it is implied in the power *to lay and collect taxes*, in the power *to borrow money*, in the power *to regulate trade and intercourse between the several States*, in the power *to provide for the general welfare*, and in the power *to make all needful rules and regulations respecting the territorial and other property of the United States*. The very circumstance of referring this right to many different heads of authority, is, in itself, conclusive evidence, that it has no very direct relation to any of them: for it can scarcely be imagined, that the single act of incorporating a bank, can be, at the same time, anything like a direct execution of so many and such distinct and independent powers. But I will examine these provisions separately.

Before I proceed, however, I will premise, that all the arguments in support of the right to incorporate a bank, as deducible from the provisions of the Constitution itself, are built up by the aid of the clause of the Constitution, which has been sometimes called "the sweeping clause." I allude to the clause which declares that Congress shall have the right to pass all laws necessary and proper for the carrying into execution the delegated powers. All the powers in the Constitution are given for certain ends or objects. But each power is not a general authority to attain a particular object, and comprehending, of course, all the means or powers applicable to its accomplishment; but, in most instances, it is a specific mean for effecting some particular end, and all other means or powers, (for means and powers are the same thing,) conducive to the same end, are expressly excluded, by the restrictive clauses of the constitution.

The mode of reasoning adopted by General Hamilton, and the other advocates of implied powers, is this: They first search for the end or object for which a particular power is given; and this object will be an immediate or ultimate one, as may best suit the purpose of the argument. Having ascertained the end or object, they abandon the power, or, rather, they confound the power and the object of it together, and make the attainment of the object, and the execution of the power given to accomplish it, convertible terms. Whatever, they say, attains the object for which any power is given, is an execution of that power. But the Constitution gives to Congress a right to make all laws necessary and proper for carrying into execution the delegated powers: and, therefore, as the execution of a power, and the attainment of its object, are synonymous terms, the Constitution gives to Congress a right to make all laws necessary and proper for attaining the ends or objects for which the various powers in the Constitution are given.

I beg leave to read a passage from this pamphlet:

"The relation between the measure and the end; between the nature of the mean employed towards the execution of a power, and the object; must be the criterion of constitutionality."

Here, then, is the axiom -- Now for the application of it. The Constitution gives to Congress the power to levy taxes, and also the power to borrow money. But the establishment of a bank is neither levying taxes nor borrowing money; nor is the law incorporating the bank a law to levy taxes, or a law to borrow money. But the immediate end or object, for which these two powers were given, was, to enable the Government to raise a revenue; and a bank may promote this object. Then, sir, by a dexterous application of the argument which I have stated, the fallacy of which consists in the sudden and unobserved transitions which are made from the power to the object, and from the object back again to the power, they prove that the establishment of a bank is in execution of the powers to lay taxes and to borrow money. I will now, sir, proceed to examine the particular provisions of the Constitution which have been relied on, and to place the subject in some different aspects.

In the first place, then, it is contended that the right to incorporate a Bank of the United States, is included in the power to lay and collect taxes. And how is the argument by which this position is maintained? Why, sir, it is said that the law, by creating bank paper, and making that paper receivable in payment for taxes, increases the circulating medium in which taxes are paid, and, of course, must facilitate the payment of them: that whatever facilitates the payment of taxes, facilitates also the collection of them; and whatever aids or facilitates the collection of taxes, is a means for their collection. And, therefore, the incorporation of a bank is in execution of the power to lay and collect taxes.

No man, sir, ought to complain of the weakness of a government, whose powers may be reasoned up by logic like this. Amidst the infinite variety of relations, and connexions, and dependencies, and analogies, by which all human transactions are allied to each other, he must be a weak politician who cannot, by hooking together a chain of implication like this, justify any and every measure of political policy or economy, as a means of executing some of the powers with which this Government is intrusted. Take this latitude of implication or construction, and you want no other

power but the power to lay and collect taxes. It may be tortured into a justification of every measure which ambition itself could desire. [No tyrant ever made a law without assigning the public good as the motive of it.](#) No man on this floor, however wicked his designs, would venture to propose a measure, (indeed few could be proposed) in favor of which he could not adduce some plausible argument, to shew that it would tend to promote the general prosperity of the country. And in showing this, he would show its constitutionality; for it is demonstrable, that whatever would promote the general prosperity of the country, would, and for that very reason, facilitate, in some greater or less degree, the payment of taxes; and might, therefore, be justified as a means for the collection of taxes.

But, sir, the Constitution, as I have said before, and I must repeat it again ---for this is the radical source of all the error on this subject--- the Constitution of the United States is not, as such reasoning supposes it to be, a mere general designation of the ends or objects for which the Federal Government was established; and leaving to Congress a discretion as to the means or powers by which those ends shall be brought about. But the Constitution is a specification of the powers or means themselves by which certain objects are to be accomplished. The powers of the Constitution, carried into execution according to the strict terms and import of them, are the appropriate means, and the only means within the reach of this Government, for the attainment of its ends. It is true, as the Constitution declares, and it would be equally true if the Constitution did not declare it, that Congress have a right to pass all laws necessary and proper for executing the delegated powers; but this gives no latitude of discretion in the selection of means or powers.

A power given to Congress in its legislative capacity, without the right to pass laws to execute it, would be nugatory; would be no power at all: it would be a solecism in language to call it a power. A power to lay and collect taxes carries with it a right to make laws for that purpose; but they must be laws to lay and collect taxes, and not laws to incorporate banks. If you undertake to justify a law under a

particular power, you must show the incidentally and applicability of the law to the power itself, and not merely its relation to any supposed end which is to be accomplished by its exercise. You must show that the plain, direct, ostensible, primary object and tendency of your law is to execute the power, and not that it will tend to facilitate the execution of it. It is not less absurd than it is dangerous, first, to assume some great, distinct, and independent power, unknown to the Constitution, and violating the rights of the States; and, then, to attempt to justify it by a reference to some remote, indirect, collateral tendency, which the exercise of it may have towards facilitating the execution of some known and acknowledged power.

This word *facilitate*, has become a very fashionable word in the construction of powers; but, sir, it is a dangerous one; it means more than we are aware of. To do a thing, and to facilitate the doing of it, are distinct operations; they are distinct means; they are distinct powers. The Constitution has expressly given to Congress the power to do certain things; and it has, as explicitly, withheld from them the power to do every other thing. The power to lay and collect taxes is one thing; and the power to establish banks, involving in its exercise the regulation of the internal domestic economy of the States, is another and totally distinct thing; and the one is therefore not included in the other.

Again, sir, it is contended that the right to incorporate a bank is implied in the power to regulate trade and intercourse between the several States. It is said to be so, inasmuch as it creates a paper currency, which furnishes a convenient and common circulating medium of trade between the several States. Money, sir, has nothing more to do with trade, than that it furnishes a medium or representative of the value of the articles employed in trade. The only office of bank bills is to represent money. Now, if it be a regulation of trade, to create the representative of the representative of the articles or subjects of trade, a *fortiori*, will it be a regulation of trade to create the articles or subjects themselves. By this reasoning, then, you may justify the right of Congress to establish manufacturing and agricultural companies within the several

States; because the direct object and effect of these would be, to increase manufactures and agricultural products, which are the known and common subjects of trade. You might, with more propriety say, that, under the power to regulate trade between the States, we have a right to incorporate canal companies; because canals would tend directly to open, facilitate, and encourage trade and intercourse between the several States; and, in my humble opinion, sir, canals would furnish a much more salutary, direct, and efficacious means for enabling the great body of the people to pay their taxes, than is furnished by banks.

But, sir, these various powers have never been claimed by the Federal Government, and, much as I am known to favor that particular species of internal improvement, I would never vote to incorporate a company for the purpose of opening a canal through any State, without first obtaining the consent of that State, whose territorial rights would be affected by it. There can be no question, but canal companies, and agricultural companies, and manufacturing companies, and banking companies may all tend, more or less, to facilitate the operations of trade; but they have nothing to do with the political regulations of trade: and such only come within the scope of the powers of Congress.

But, it is again said, that the right to grant this charter, is included in the power to borrow money. The right is attempted to be deduced by a train of reasoning similar to that employed in relation to the provisions which I have already noticed. By forming a string of implications, by which you prove that a power to act in certain cases, and in relation to certain subjects, implies the power to create those cases and subjects to act upon. The Government, it is said, may want, and must have money in any great national crisis. A national bank, with an extensive capital, will furnish ample means for loans; will facilitate the exercise of the power to borrow; and, therefore, the right to establish such a bank, is implied in the power to borrow.

No one, but a logician, sir, would imagine that a power to lend, and a power to borrow, had any relation to each other, much less could he conjecture, that a power to borrow, and a

power to create the ability to lend, mean the same thing. A plain unsophisticated man, on reading the Constitution, would say, that the power to borrow, necessarily and by force of the term, pre-supposed the existence of the ability, and the disposition to lend; and that it could not be exercised unless such ability and disposition should actually exist. But the favorite doctrine is, that all powers are given for particular ends, and include all the means applicable to their attainment. Here the end is to borrow money; to borrow honestly if we can, but, TO BORROW. The ability to lend is a necessary means or ingredient toward perfecting the execution of the power to borrow. But, sir, let me ask, whether the disposition to lend be not as necessary a mean towards accomplishing a loan as the ability ? It unquestionably is. And, of course, by the doctrine that the end justifies the means, you may coerce the will to lend; and this, too, equally, in cases where the ability is created by Congress, and where it is derived from any other quarter. A loan obtained by bringing into fair operation all the implications of this power, would be borrowing in an off-hand style. Such a loan, if effected by Bonaparte, we should call robbery. But in this mild Republic, it would be nothing more than the fair exercise of an implied constitutional power.

I have pursued this argument thus far, merely for the purpose of showing the absurdities into which this doctrine of implication will lead us. But, suppose, sir, that the argument of the gentlemen on the other side of the question be correct, as far only as they have carried it, to wit: that the power to borrow implies a right to furnish the ability to lend. What, I would ask, is the probable fact, as to the facilities which this bank will afford the Government in borrowing ?

It will be conceded that we shall have no occasion for borrowing, except in case of a war; and if we have a war, the probability is, that that war will be with Great Britain. I say this, not as a party man, sir, but because the interests of that nation, from her situation, and her rival pursuits, will be much more likely to come in collision with ours, than those of any other power. Now, it is a fact, in evidence before the committee, that more than one-half of the stock of this bank belongs to British subjects; and although, as foreigners, they

can have no direct agency in the affairs of the bank, yet we well know, that, through the instrumentality of their friends and agents, of whom there are, unfortunately, too many in this country, they may completely control its operations. Now, I would ask, whether it is probable, that British subjects would be willing to lend us money to carry on war against their sovereign ? Would they not, on the contrary, exert the immense influence which they are said to possess over the moneyed interests of this country, for the purpose of depressing the credit of the country ? for the purpose of crippling the operations of the State banks ? and for the purpose of drying up the sources from which the Government might otherwise calculate to derive supplies ? But, sir, this has little to do with the question of constitutionality, to which I will again return.

Another ground upon which the constitutionality of this institution has been attempted to be supported, is, that it is necessary to the regular and successful administration of the finances. There is no question, but this bank, and its branches, afford convenient places for the deposit and safe keeping of the public revenue. It is not to be controverted that they also furnish a safe, convenient, expeditious, and cheap means for the transmission of moneys from one part of the United States to another, as they may be wanted by the Government. And if these facilities were not to be attained in any other way, I should say it would afford an argument in favor of a bank; not a bank infringing and violating the rights of the States; but, a bank upon principles consistent with those rights.

But, sir, is there not, in every State in which there is a branch of the United States' Bank, also one or more State banks, of equal respectability, and of equal security; at least to the extent of any sum for which they are willing to undertake ? These State banks may be used as depositories for the public moneys, and they will be equally safe and convenient. And, if you will give to these State banks the advantages of these deposits, as you have hitherto given them to the United States' Bank, they will furnish means for the transmission of moneys from place to place, equally safe, convenient, cheap, and expeditious. This object will be attained by connexions

which will be formed between the banks of the different States. Such connexions have already, in many instances, been formed. But, they have not been carried to the extent they otherwise would have been, on account of the United States' Bank and its branches; between which, there is so intimate and so necessary a connexion.

But, in answer to this, it is said that, if the Bank of the United States would be constitutional without the existence of the State banks, it is equally so with. That a power which is once constitutional is equally so at all times, and under all circumstances. That a right which must depend for its existence on the will of the State Legislatures, over whom we have no control, is incomplete, and, indeed, as to us, is no right at all. This argument is founded on the supposition, that the Federal Government is a complete Government, containing in itself all the principles and powers necessary for its own operations; which supposition is wholly false. The Federal Government does not profess to be complete in itself. It is expressly predicated on the existence of the State Governments; and most of the facilities for its exercise are derived from the State Governments. It cannot perform even its own peculiar powers and functions, without the aid and co-operation of the State authorities.

How, let me ask you, sir, is your Government constituted ? Your Senate is appointed directly by the State Legislatures. Your President and House of Representatives, indirectly, by the same authority. Suppose they should neglect or refuse to make these appointments, can you compel them to do it ? No, sir. Can you punish them for not doing it ? Not in the least. They may appoint, or not, as they think proper; and if they should neglect, or refuse to do it, your boasted complete Government would die a natural death, by its own imbecility.

It is not fair, then, to say that a power is constitutional, because the Government would be incomplete without it. It is not fair to say, that what would be constitutional, without the existence of the State Governments, and their appendages, is equally so with. This would prove that you have a right to appoint your own President, Senate, and House of

Representatives. It would go to usurp all the powers of the State Governments: for the Government could not be said to be complete, without possessing the powers of both Governments combined. Indeed, this Federal Government cannot be said to be complete, as to a single power, without all the auxiliary powers of the State Governments: for there is not a single act which it can perform without their assistance, directly or indirectly.

The very bank law now under consideration, is an illustration of this: for how are the provisions of this law to be enforced; how are the debts which it authorizes to be contracted, to be collected, but through the medium of the State courts ? The doctrine of perfect rights, then, if it prove any thing, proves too much. If it proves that, in order to manage your revenues, you may establish banks within the States, it equally proves, that, in order to carry the provisions of your bank laws into execution, you may establish courts and offices within the States for that purpose. I think, then, sir, I may fairly conclude, that, so long as the State Governments furnish you with all the facilities which you can reasonably require, for conducting your revenues by means of their State banks; so long, it will be unnecessary; so long, it will be improper; and, therefore, so long, it will be unconstitutional, to invade the jurisdiction of the States, to establish national banks.

Again: The constitutionality of the bank has been attempted to be maintained by a reference to the phrase in the Constitution, in relation to the power of Congress to provide for the general welfare. I will read the clause in which this phrase is contained :

"The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States."

This clause has been erroneously construed by some, to contain a successive delegation of three or four distinct powers, to wit: a power to lay taxes; a power to pay the debts; a power to provide for the common defence and general welfare. If, then, it is said, Congress have power to

provide for the general welfare, they may choose the means, which are here not made specific, but left discretionary, for the attainment of that object; and if, in their opinion, a national bank will conduce to that object, they have a right to establish a national bank. But, sir, this is a total misconception of the meaning of this clause of the Constitution. Instead of three or four distinct grants of power, this clause contains but one grant of power, namely, the power to raise money by taxes, &c. and all the subsequent parts of the clause are a mere limitation of this power to raise money; or a specification of the purposes for which money may be collected.

That this is not a general authority to Congress to provide for the common defence and general welfare, is instantly discovered by a comparison of this clause with the subsequent part of this section, which consists of a list, or enumeration of the specific means or powers, by which Congress may provide for the common defence and general welfare. And it would be unnecessary and absurd in itself, as well as repugnant to the whole spirit and character of this Constitution, to give, first, a general power, and then to delegate specific powers, all comprehended in the general one. Although I do not think there is any ambiguity in this clause, as it now stands, yet, its meaning might, perhaps, be rendered more perspicuous and definite, by altering the phraseology so as to read in this way:

"Congress shall have power to lay and collect taxes, duties, imposts and excise, for the purpose of paying the debt, and providing for the common defence and general welfare of the United States; but, (going on again, sir, with a further qualification of the same power to raise money) all duties, imposts and excise, shall be uniform throughout the United States."

This, then, is merely a right to raise revenue; and, so far as regards the objects for which revenue may be raised, the powers of Congress are discretionary; provided those objects come within the description of providing for the common defence and general welfare. But, so far as regards the means by which these revenues, when collected, shall be applied to their destined objects, we must look to the powers of Congress, as defined and limited in the subsequent parts of

this section. In other words, this clause gives plenary powers to raise money; but it gives no powers, I should say political powers, in relation to its application and expenditure. The powers of Congress over the money, when collected, in reference to its expenditure, would be the same which an individual possesses over his private property -- powers resulting from the nature of property, and as regulated by the laws of the State in which it might happen to be situated.

I will illustrate my idea by a case. Suppose the Constitution had given to Congress the power to raise a million of dollars, to provide for a national university. Would it thence follow, that we might go into the State of North Carolina, and take your property -- property secured to you by the laws of this State to make this establishment upon ? Could we take the public property of that State for this purpose ? To both of these questions, every man, who understands any thing of the Constitution, will promptly answer, no. This power, then, to raise money, for the purpose of establishing a national university, is only a power to raise money; and, for the means of applying it, we must search for our power in other parts of the Constitution. On doing this, we should find that we must erect the university either in the District of Columbia, or in one of the territories over which we have exclusive jurisdiction, or in case we should choose to erect it within the limits of a particular State, we must first, not only purchase the land, but obtain a cession of the jurisdiction from the State Government. The phrase of *providing for the general welfare*, then, is a mere qualification of the power to levy taxes, and can give no authority in relation to banks.

There is one more, and I believe but one more, provision in the Constitution, which is relied on as authorizing the establishment of this bank. It is this:

"Congress shall have a right to dispose of and make all needful rules and regulations respecting the territory, or other property belonging to the United States."

It is said that, in virtue of this provision, Congress have established the territorial Governments, which are corporations of the highest and most extensive nature, exercising political powers over the person, as well as the

property of citizens of the United States; and that no complaint has been made, that Congress has exceeded its authority in this particular. Why may we not, then, it is asked, establish corporations to regulate and manage the personal property of the United States, which is coupled in the Constitution with the territorial property ? The fallacy of this argument consists in not marking the distinction which exists in these two species of property, and the consequent powers of the Government over them. The property which the United States possess in the territorial lands, is not a mere right of soil, a mere usufruct; but it also includes the right of jurisdiction and sovereignty. It is in virtue of this right of jurisdiction, of those sovereign plenary and exclusive powers over the territories, which I noticed in a former part of my observations, that these corporations or territorial Governments have been established. On the other hand, our revenues are not only personal property, but a qualified property. They are collected for certain objects, and are subject *in transitu* to the local jurisdictions. This argument, then, which is founded on an analogy that does not exist, must fall with the analogy that supports it.

But, Mr. Chairman, my honorable friend [Mr. Fisk] has advanced a new argument in support of the constitutionality of this bank; an argument, not deduced from the provisions of the Constitution itself, but founded on prescription. He tells us that this bank was originally incorporated by a Congress fully competent and qualified to decide on its constitutionality; that its existence is almost coeval with the Government; that it has been countenanced by all succeeding administrations; that laws have been passed to enforce the provisions of the original charter; and, therefore, the constitutional question must be considered as settled, adjudicated, and at rest.

Whatever may be the [opinion of the gentlemen of the long robe](#), I cannot, for myself, yield to this doctrine of prescriptive constitutional rights. It may answer in England, where they have no constitution; or where, rather, as they choose to explain it, immemorial usage, or prescription, are evidence of what their constitution is. It may do in Connecticut (it is not my design to derogate from the

respectability of that State, nor of its institutions) it may be good doctrine in Connecticut, where ancient custom and steady habits are their constitution. But, sir, such doctrine should never be tolerated in this House, where every member has a *printed constitution* on his table before him ---a Constitution drawn up with the greatest care and deliberation; with the utmost attention to perspicuity and precision. A Constitution, the injunctions of which, as we, in our best judgments shall understand them, and not as they shall be interpreted to us by others, we are solemnly bound, by our oaths, to obey.

It is true, that this bank was originally established by a Congress competent to judge of its constitutionality. It is equally true, that a respectable minority of that Congress opposed the passage of the law, on the ground of its unconstitutionality; and, if I have been rightly informed, it is also true, that the then President, General Washington, in giving his sanction to that law, did it with more doubt and hesitation than almost any other act of his administration. It is true, that subsequent Congresses, of different political complexions, have passed laws enforcing the provisions of the original charter; and that no attempts have been made to repeal it. But, it is equally true, that all this might be done with the most perfect propriety and consistency, although they totally disbelieved in its constitutionality.

I need not state to this House, that this is not a law in the ordinary course of legislation; a law prescribing a common rule of conduct for the government or the citizens of the United States at large; liable to be repealed at any time; and the obligations of which would cease with its repeal. This, sir, is not the nature of the law; but it is a law in the nature of a contract between the Government and certain individuals, and the existence of it was extended to twenty years. The moment this contract was made, and its operations commenced, private rights were vested; and it would have been a breach of national faith to have repealed it.

The original Congress had the same right that we have to judge of the constitutionality of a law; and having, under that right, passed this law, or made this contract, we are bound to

carry it, as a contract, into execution. As a contract, every successive Congress, of whatever materials composed, is one party to it; and it is well known that a party cannot violate the obligations of his own contract; but, on the contrary, is bound to carry them into effect. It was competent in the State Governments to have opposed the execution of this law, on the ground of its unconstitutionality; but, perhaps, under all circumstances, they acted a wise and discreet part, in not attempting it. The national faith was pledged in the passage of this law. The national credit, which it was, at that time, and which, indeed, it is at all times, of the first importance to support, was at stake on the faithful execution of this contract: and it was better to suffer for twenty years, under an unconstitutional law, rather than to attempt so violent a remedy ---a remedy which would have crippled the credit of the nation in its infancy.

But, sir, because these were proper considerations with our predecessors and the States, to suffer the continuance of this law, does it follow that now, when that law has expired by its own limitation; when the obligations of that contract are complied with and discharged; when the national faith is emancipated, that they are motives for us to make a new unconstitutional contract ? No, sir. The question now is a question *de novo*. It is a question of conscience in the interpretation of the letter and spirit of the Constitution, unembarrassed by any collateral considerations; and as such, I shall feel bound to vote upon it. It is the province of the executive and judicial departments to explain and direct the practical operation of each particular law; and I must submit to the decisions. But the commentaries of courts are not to furnish the principles upon which I am afterwards to legislate. It is to this book, (the Constitution) so justly dear to us all, and not to the books of reports, that we must look, as a guide, to direct us in the path of our oath and our duty.

I believe, sir, that I have gone through, lamely I know, but I hope intelligibly, with the examination of all the principal arguments that have been advanced in support of the constitutionality of this law. Having already occupied so much time, I will detain the committee but a few moments longer.

If the views which I have taken of the subject are correct, these positions may be considered established. *First*, that we have no right to incorporate a bank, unless that right be delegated by the Constitution: for such is the declaration of the Constitution itself. *Secondly*, that if this right be given by the Constitution, it is included in some of the provisions upon which I have been commenting.

The only question, then, as relates to the Constitution, is, whether we shall, by the passage of this bill, recognise the doctrine of implied or constructive powers. Before we do this, I must entreat every member of the committee to examine well the consequences of such a recognition. This is not a question about the utility or inutility of a bank; but it is a great question of constitutional principle. It is, whether we shall consider this Government as the servant and instrument of the people for managing and protecting their rights, and subject, at all times, to their control; or, whether we shall make it a giant, capable of crushing its masters? A moment's careful attention to this subject will show us that the doctrine of implied or constructive powers, as contended for in this case, is nothing more nor less than the doctrine of general expediency; and that, once established, it will warrant Congress in the adoption of any measure not expressly prohibited by the Constitution.

The great ends or purposes of our Government are the liberty, the security, and the happiness of the people. The raising and management of revenue, the establishment and support of armies, the institution of courts of justice, and the regulation of trade and intercourse between the States and foreign nations, are some of the great means or instruments by which these results are finally produced. There is a natural and intimate connexion and coincidence between all these great measures or powers of government; they are expressly calculated to aid and assist each other in their operations, and, in fact, form different parts only of one great political machine. Every possible measure of civil policy is expedient exactly in proportion to its fitness or tendency to promote the combined operation of these great causes or instruments of human happiness and security. But, sir, by the doctrine of

implied powers, the constitutionality of every measure is also made to depend on its tendency or fitness to promote the final objects for which these various powers are given; and thus resolves itself into a question of expediency.

From the view we have taken of the arguments in support of the right to incorporate this bank, we perceive that its constitutionality is not made to depend on the peculiar applicability of the measure to any particular power in the constitution: for it is equally applicable to half a dozen different powers; but its constitutionality is made to depend on its general tendency to promote the ultimate objects for which these different powers were given. In other words, it is made to depend on its expediency. We speak of implied powers as innocent things as matters of course. But the idea of express constitutional powers, and implied constitutional powers, gives us the exact definitions of limited and arbitrary Governments. The final object of both these Governments is the same -- the happiness of the people. The only difference between them is, that in the one case the powers or means by which this end is attained, or intended to be attained, are limited and defined; in the other, they rest on the discretion or will of the despot ---they are all, with him, questions of expediency.

There is another point of view in which, this subject may be placed; and in which, it seems to me impossible for the strongest advocates of implied powers to reconcile the passage of this bill. It will not be denied, that the Constitution contemplates the existence of two distinct sets of powers -- the one in the State Governments, and the other in the Federal Government. That there are certain powers which maybe said to belong peculiarly and exclusively to the State Governments; and certain other powers which may be said to belong peculiarly and exclusively to the Federal Government. Now, sir, if there be any power which can be said to belong peculiarly and exclusively to the State Governments, it is, in my humble apprehension, the very power of erecting the corporations for the purpose of carrying on moneyed or other operations; connected immediately, necessarily and inseparably with the internal political

economy of the State. It is the power of regulating the rights and relations of property between citizen and citizen of the same State: it is the power of erecting a banking company, in order to facilitate and direct the daily and ordinary operations of trade and industry among the citizens of the same State. Although, then, I say, the power of incorporating a bank might, at first, seem to be implied in some of the powers of the Federal constitution, yet, when we see that, in its exercise, it goes to obliterate and destroy the great characteristic feature of distributive power in this Republic; when we see that in its execution, it obtrudes and ramifies itself into all the transactions of domestic economy, which are the peculiar subjects of local or State regulation, we ought, on that account, to reject it.

But, sir, I will conclude by again cautioning my republican friends, and my worthy colleague in particular, to beware how they familiarise themselves with this [doctrine of constructive power](#). It is a creed, at war with the vital principles of political liberty. The pride and the boast of the American Governments is, that they are the governments of the laws and not of men -- that they are the regular and necessary operations and results of principles and powers, established in the moments of cool and deliberate reflection, by the combined wisdom of the nation; and that they are not the effects of the momentary passion, pride, interest, whim or caprice, of a few individuals collected on this floor.

Little did the framers of this Constitution, when they were so nicely adjusting and balancing its various provisions --- when they were so carefully erecting guards and barriers against the encroachments of power and ambition--- little, I say, sir, did they imagine, that there lay concealed under the provisions of this Constitution, [a secret and sleeping power](#), which could, in a moment, prostrate all their labors with the dust. Still less, sir, did the people when they adopted this Constitution, with even more caution and scruple than that with which it was formed, conjecture that they were singing [the death warrant of all their State rights](#). But, once adopt the doctrine that you may travel out of the letter of this Constitution, and assume powers, merely on the ground that

they will tend to facilitate the execution of powers which are here given; and you compass, at a single sweep, all the rights of the States; and form the basis of a consolidated government.

Let the principle of constructive or implied powers be once established, in the extent to which it must be carried, in order to pass this bill, and you will have planted in the bosom of this constitution a viper,^{\$} which, one day or other, will sting the liberties of this country to the heart.

When Mr. Porter had concluded his speech, the question was taken on striking out the first section, and carried-- 59 to 46.

The Committee rose, and reported to the House, who adjourned without taking a question on the report.

^{\$} They didn't have to wait long. In 1819 Chief Supreme Marshall made his pronouncement (*McCulloch vs Maryland*) that "implied powers" are, and have always been, part of the Constitution, and anyone who objects to it is repugnant.

Saturday, January 19, 1811.

Mr. Love, this day, offered the following resolution:

Resolved, That it is expedient to repeal so much of an act passed the 10th day of May, 1800,^{\$} as makes it the duty of certain collectors to deposite, for collection, in the bank of the United States or any of its branches, the bonds taken by them for the payment of duties; and, that it be expedient to provide that the bonds or money, now deposited in the said bank or its branches, may be withdrawn.

The said resolution was read and ordered to lie on the table.

Mr. Sawyer called for the order of the day on the unfinished business of yesterday ---the bill continuing the charter of the Bank of the United States.

Mr. Fisk moved that the report of the said committee should lie on the table. This was disagreed to by a vote of 57 to 46.

The House then proceeded to consider the said unfinished business, and the question to concur with the Committee of the whole House on [striking out the first section of the bill](#) to continue, for a further time, the charter of the Bank of the United States, being stated---

^{\$} Until the year of 1800 ---instead of relying on the good offices of the Bank of the United States--- the revenues of the government of the United States were collected and kept by collectors. In that final year of John Adams' federalist administration (the administration that put more people in prison for sedition than king George during his life-time) a law was passed, on May 10, that made the Bank of the United States the depository of the custom-house revenue. Following that, the United States presented this insane spectacle of having a revenue rich Federal Government that had no means of keeping its treasure ---no thesaurus, no strong room, certainly not a Fort Knox, where to store the silver coins it received abundantly; a government that needed to rely on a private bank to receive, to safe-keep, to pay out moneys. The advocates of the private central bank used this necessity, which they created, as reason and excuse for the continued existence of this fiscal agent ---without which revenue cannot be collected and paid out, as they claimed. Not until the Independent Treasury Act of 1840 did Congress order the construction of suitable buildings, and made government employees the collectors of revenue again.

MR. DESHA⁶ SAID:---

Mr. Speaker, the question is on a concurrence with the Committee of the Whole, in striking out the first section of the bill that contemplates a renewal of the charter of the Bank of the United States; or, in other words, whether we will foster [a viper in the bosom of our country](#), that will spread its deadly venom over the land, and finally affect the vitals of your republican institutions; or, whether we will, as it is our duty, apply the proper antidote, by a refusal to renew the charter, thereby checking the cankering poison, the importation and dissemination of foreign influence that has already brought our Government almost to the brink of ruin.

Sir, I am opposed to the renewal of the charter on constitutional grounds, as well as on the score of expediency. I view it as being directly at war with not only the letter, but the spirit of the constitution, and replete with principles incompatible with republicanism. As to the constitutionality, the ground that I intended to have occupied, was taken from me by the gentleman from New York, who spoke yesterday, (Mr. Porter) and I will say ably managed. The points he made, I consider incontrovertible, and the arguments deduced from them, unanswerable; consequently, as I deem the constitutional question nearly exhausted, I shall but barely touch upon it.

The States, sir, from the time they determined to be free, were particularly guarded against the adoption of any measure that could, in the most remote degree, lead to aristocracy or consolidation. Let gentlemen examine that instrument the pledge of union ---I mean the Articles of Confederation. They will find it couched in cautious language; they will find that the framers of that instrument were particularly guarded against vesting powers in the General Government, that could, in the most distant manner, place their rights and liberties in jeopardy; they, no doubt, viewed large moneyed institutions, like the one under consideration, as moneyed aristocracies which might, with their different ramifications, jeopardize liberty, by imperceptibly gliding into consolidation. A power expressly given to the General

Government to grant charters of incorporation will not be found in the Articles of Confederation; and if gentlemen will cast their eyes over the second article of that instrument, they will find it expressly provides, that each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not, by the Articles of Confederation, expressly delegated to the United States in Congress assembled. This, sir, I show to prove, that, from the time the States determined to shake off the shackles of despotism, the power of granting charters of incorporation was never intended to be given to the General Government.

Sir, those gentlemen who are the advocates of this measure will not pretend, that the power to grant charters is expressly given by the Constitution, and, sir, they must be well apprised that such a power was never intended to be given. This fact ought not to be lost sight of. Did not Mr. Madison urge, in energetic language, in 1791, on the floor of Congress, that the power to grant charters of incorporation was in the original plan, reported by the committee to the convention among the enumerated powers delegated in the eighth section of the first article of the Constitution, but, that after three days' deliberation and ardent debate, it was expunged, as a power dangerous and improper to be vested in the General Government ? It is on remote constructive powers, that gentlemen must bottom this measure; and in my mind, there they are cut short by the 10th article of the amendment to the Constitution of the United States, where it expressly provides, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People." Are not those prohibitory words strongly and clearly expressed ? Sir, I defy gentlemen to lay their finger on any clause of the Constitution that would justify the granting monopolies or exclusive privileges. No, sir, it cannot be done, unless they lay hold of the horrid doctrine of implication -- a doctrine as absurd as it is dangerous, particularly when you have a specific instrument for your guide, and one which you have taken a solemn obligation to support inviolate. I had hoped that the doctrine of implied powers had long since been exploded.

Ever since the reign of terror, ever since the federal gentlemen, under the head of constructive powers, adopted the alien and sedition laws, the people of the United States, in whom the powers of Government rightfully rest, signified their disapprobation of the doctrine of implication, in forcible language, by hurling the then majority out of power. Sir, if you subscribe to this doctrine, the barriers of your constitution are broken down; it will ultimately become a dead letter; you will have nothing to restrain you. But, say gentlemen, our predecessors have said it was constitutional; they were men of wisdom and solemnly passed upon it as being within the pale of the Constitution. Sir, I acknowledge they were men of wisdom, and perhaps actuated by the purest of motives, but they were men; consequently, fallible, and liable to err; and in my mind, they did err most egregiously. And am I to take for granted what they have done, without examining and judging for myself, particularly when I am acting under the solemnity of an oath? No, sir, while I have the honor of a seat on this floor, and any measure is about to be adopted which, in my opinion, conflicts with that instrument that I am sworn to support, I will raise my voice against it, and if possible, check its progress.

But, sir, we are gravely told, that it is expedient to renew the charter of the Bank of the United States, inasmuch as the evils arising to Government and individuals would be desperate on its being suffered to expire; therefore, it was constitutional. Then, sir, we are to understand expediency and constitutionality to be synonymous terms; then, if that is the fact, the Constitution is a nullity in itself. Congress has nothing to restrain them but their judgment. They are fully at liberty to adopt any measure they may think proper under the sweeping clause of providing for the common defence and general welfare.

Sir, much confidence as I have in Congress, after witnessing the fluctuations and vibrations that have passed in review for several sessions past, I am afraid your republican Government would be prostrated; your liberties would be shortly at an end. Gentlemen talk of republicanism -- they say they are real Americans in principle, and would go any length

that was necessary in defending our rights against oppression -- and, sir, at the same time are doing the very thing our lasting and [inveterate enemy, Britain](#), would wish them to do; and the very thing, if adopted, that will strengthen her power and inevitably accelerate the dissolution of Government. What did that able statesman say, who, with some gentlemen, have been considered almost oracular ? I mean, sir, William Pitt, speaking of the American policy--- *"let them adopt their funding system and go into their banking institutions, and their independence is a mere phantom."* Sir, keep close to your chartered authorities, or the most direful evils await you. If you are at liberty to twist that instrument on which the perpetuity of your civil liberty depends, into any shape the caprice of party may think proper, you may calculate on your boasted institutions being of but short duration. If your Constitution is defective, amend it. The manner is pointed out, and which is certainly much safer than to slide into the dangerous doctrine of implication. If you can multiply and link together remote implications, you may, from the same parity of reasoning, take in every object of legislation that comes within the whole scope of the political sphere.

Sir, it is not only astonishing, but painful, to behold gentlemen who, on former occasions, were loud against the doctrine of constructive powers, now its warmest advocates. They come forward with the greatest ardor imaginable, in support of a measure that has nothing in the Constitution on which they can bottom it, without laying hold of the dangerous doctrine of implication. The federal gentlemen have the same justification for the adoption of this measure, that they had for the adoption of the alien and sedition laws. The doctrine of implied powers will hold them out. But, sir, their object is to pull down the administration and republicanism ---ours to support it. The minority is not responsible; the majority has the whole responsibility on their shoulders; consequently, ought to act with great circumspection.

Sir, what were the causes that produced a change of administration ? Was it not constitutional encroachments and abuses ? Most unquestionably it was. And will gentlemen

wantonly steer their bark against the same rock on which the former administration split ? Rest assured, sir, that the people of the United States will not tamely look on and see their sacred Bill of Rights trampled under foot. No, sir; when they discover a disposition in the public agents to fritter away their Constitution into a mere cipher, they will rise in their majesty, and, in a constitutional way, apply the proper corrective. They will tell you, gentlemen, that you have betrayed the trust reposed in you, by abusing the powers delegated to you; that you must give place to more able and safer hands to steer the national bark.

Well, sir, as to expediency, we are told that inevitable ruin would follow a refusal to renew the charter of the Bank of the United States, as it is improperly called. Pray, sir, in what way have the United States a single cent of money or interest in this bank ? Certainly none. Does she not merely lend her name, and, by that, foster speculation ? Most unquestionably she does. For, sir, I can view it in no other light, than a complete system of speculation. A system, sir, that has drained a considerable portion of your precious metals from your country. Has there not, within less than twenty years, nearly nineteen millions of dollars, dividends arising from this colossal bank, been principally sent out of the country to fatten the European shareholders, who are the principal stockholders ? For, sir, I believe it will not be denied, that about three-fourths of this ten million capital belongs to foreigners, and principally to the citizens of the island of Britain; the balance, in all probability, principally to her agents and partisans in this country -- for I recollect that, on a former occasion, a gentleman from Virginia laid a resolution on the table for consideration that contemplated making the shareholders known, and that extraordinary opposition was manifested by the other side of the House, I presume, lest the measure should become more unpopular, when it was ascertained that nearly the whole of the capital stock belonged to Britain and her partisans.

Mr. Speaker, money is naturally calculated to command influence. Then what must be the influence wielded by this ten millions of capital in the bosom of our country, and held

principally by our lasting and inveterate enemy ? This is one of the engines, and no inconsiderable one, that is set to work, in order to overturn civil liberty, and which will, in all probability, unless checked by timely resistance, go lengths in producing the effect: and, sir, from the influence it has already obtained in different sections of the Union, and the ardent manner it is advocated, I should not be surprised, if a renewal of the charter should take place -- if it should ultimately make its way into the national councils. Let gentlemen reflect on the hardihood of the agents of this bank. They come forward in the face of the nation, and openly offer to **bribe its councils with upwards of a million of dollars** for the renewal of the charter; for, sir, I may be wrong, but I can view it in no other light than as a bribe in order to obtain the name and sanction of Government to carry on their destructive speculations. I have no doubt but that George the 3rd is a principal stockholder in this bank; and I believe, rather than not succeed in obtaining a renewal of the charter, that he would authorise his agent in this country to bid up several millions: because, sir, he has never pardoned us since our independence, and by this means he would necessarily calculate on effectuating his nefarious purposes of overturning your Government and bringing you under his power again, and which would be a much safer method than encountering the Americans in arms: for of that he became extremely tired when we were in a state of infancy.

But, it is said, that this bank can be of infinite service to Government, in making her deposits in, and, in case of necessity, to borrow money from, to answer governmental purposes. Indeed, sir, if we continue temporising and playing the losing game much longer, we will have but little to deposite. And would it not be as safe to make the deposits in some of the State banks as in this foreign bank ? For we must be in a desperate situation, indeed, if it would not be equally as safe to trust ourselves as to trust foreigners, and the very ones who are oppressing us, and whose interest as well as inclination is to oppress us in every imaginable way. And, sir, as to the obtaining of loans in case of emergency, I would much rather be dependent on my own Government -- on the

citizens of my own Government, than a foreign Government or its agents, and especially one that is at war with us; for I deem it tantamount to war, when they are perpetually plundering our property, impressing and ill-treating our countrymen, as well as depriving us of important inherent rights, the liberty of the seas.

This measure, perhaps, may be a conveniency in our fiscal concerns, in the collection and transmission of revenue; but, sir, there is no danger of the wheels of Government being stopped for it; and, sir, I should regret extremely, if it was, as has been insinuated, that the existence of our Government depended on foreign capital. I should regret extremely indeed, if we held our rights, privileges, and independence, on so uncertain a tenure.

No, sir, in my mind government can be carried on equally as well without this darling bank as with it: therefore, it is time to abandon this destructive system. I confess, sir, that I am not very favorably disposed to banking institutions; I view them as in direct hostility with the principles of our Government: but if we must have banks, in the name of common sense, let us have a bank of our own, with home capital and not foreign, and one that will not import foreign influence ---for God knows we have enough of it among us already--- and one that will not extract the wealth from your country and export it, nor undermine the foundation of your liberty.

Well, sir, on whom is this ruin, that is spoken of in such lively colors, to fall? Why, sir, it is to fall on a few speculating merchants, who have been so incautious as to become involved in debt in consequence of wishing to carry on extensive speculations, therefore borrowed freely of this foreign bank, the calling for which sums would, in all probability, bring on bankruptcies. These are not the people that I would make any considerable sacrifice for. They are not deserving it. Government has already made very considerable sacrifices in attempting to comply with their memorials and petitions respecting the protection of commerce; and how have they been rewarded? Why, sir, by flying in the face of authority, and trying to bring the laws of Government into ridicule. Yet they are the few who are to be favored at the

expense of the many. But, notwithstanding their reprehensible conduct, there are respectable exceptions: I speak of the speculator, not of the honest and fair trader.

I wish not to be considered an enemy to commerce. The reverse is the fact. I am a friend to it to a certain extent; as [an auxiliary to agriculture](#); but I never wish to see it have the ascendancy in Government, to sway the national councils and give law.

But, sir, if the evils will be so great at this time on a failure to renew the charter, what will they be at the end of twenty years, the time contemplated to extend it ? For it is reasonable to suppose, that the evil will increase in equal ratio for twenty years to come, as it has for twenty years past. Agreeably to this, a renewal will be tantamount to a perpetuation; for, agreeably to the doctrine held forth by gentlemen, a failure then to renew the charter would engulf the Government in ruin, and overturn the fabric of liberty. Who are to be favored particularly by the continuance of this destructive system ? The speculating mercantile class, I may say, exclusively. And, sir, if they increase in extravagance and arrogance for twenty years to come, in equal ratio with what they have for a few years past, nothing will satisfy them short of swaying the national councils, and giving law to Government, and making every thing subserve to their cupidity. Sir, I hold commerce essentially necessary, and would go as far as reason would justify in the protection of it, but I am for keeping it directly within the pale of reason, and not suffering it to drown every thing in the whirlpool of its power.

Are not Government well aware, that this large foreign capital, in the bosom of our country, has an extraordinary influence in certain sections of the Union in our elections, the keeping which pure, ought to be an object of the first magnitude ? How was it, sir, formerly, in New York ? Did they not, in consequence of this moneyed aristocracy, give complete tone to the elections; and, sir, was it checked until Burr surreptitiously obtained the Manhattan Bank, under the mask of watering the city, which formed a counterbalance ? And, when it obtains an influence in your elections, you may

necessarily calculate on its making its way into your national councils; then every thing must bend to this monstrous speculating institution, your Constitution not excepted.

It will be said, no doubt, as I am from the West, where banks are not common, that I am unacquainted with the nature and operations of banking institutions. Sir, I do not pretend to go into details practically, I acknowledge, I am unacquainted with them: my information on subjects of this kind is principally theoretical. But, sir, I am sufficiently acquainted with the nature and operations of them to convince me that they are systems of speculation, calculated to suit the [speculatory and mercantile class](#), at the expense of the agriculturist -- at the expense of those who are the support and sheet anchor of your Government. How is it, sir, when your banks break, which has been the case in several instances, in some of the Eastern States ? The Farmer's Exchange Bank of Rhode Island, when it was ripped up, had but some odds of forty dollars in its vaults. The Berkshire and Northampton banks, both of Massachusetts, when their vaults were examined, one had perhaps thirty or forty dollars in it, the other, I believe, was entirely empty; and the Coos Bank, (I believe it was called) of New Hampshire, was nearly in the same situation, and thousands of their bills in circulation at the time. Well, sir, who were the sufferers ? The note holders, the people at large. And, sir, as it is a system of speculation, when they have emitted bills to the amount of their limitation, where they are limited they may break (as the saying is) full handed, and the weight of the shock falls on the note holders, who are principally agriculturists, as they compose eight-tenths of the people.

But, sir, the accounts of the speculations, impositions, and, I must add, swindling and corruptions, that have been practised in the East, under the head of banks, have reached the West, and the people, notwithstanding they have, by some of the eastern gentry, been deemed scarcely in a state of civilization, have sympathised with their eastern friends, and had regretted that turpitude had become so deeply rooted in the East, in the line of banking, where all but exclusive civilization was claimed, and which has made them cautiously

guard against the possibility of being engulfed in a similar vortex. But, sir, if gentlemen would cast their eyes emphatically over the history of the West, I expectancy would not only find civilization, but pure patriotism; patriotism, sir, that would not fade before the sun; they would find the people uncontaminated with foreign partialities, prejudice or influence, and where the last torch of liberty would be held up on the continent, as a terror to tyrants.

Mr. Speaker, perhaps I am mistaken, but I view this measure as the greatest test of political principle that has been on the carpet for many years back, and if adopted, federalism, or, if gentlemen please, aristocracy, will regularly progress, and finally obtain the ascendancy; republicanism will have to take the back ground, and ultimately be prostrated; your boasted institutions will only figure in the pages of history, like ancient republics, as a mournful monument of the fall of man, and a sorrowful memento of his degraded condition; therefore, in my mind, the adoption of this measure would seem like committing a most horrid treason against the principles of the Constitution and civil liberty; consequently, I consider it not only the true interest, but the bounden duty of every man who has any pretensions to friendship for the American Government, or civil liberty, to assist in strangling this infant Hercules in the cradle, or at least preventing it from coming to maturity.

If this measure was only calculated to perpetuate the memory of its founder, I should not so much object to it; but then I should think it unnecessary and improper. But, sir, it will do more; it will further the views of federalism, by increasing their power, and assist them in overturning the present system of government, on the ruins of which they will calculate on raising one more congenial to their purposes.

Mr. Speaker, from my present impressions, I think it would be more advisable, if the British Government should not rescind their destructive measures affecting our rights, and do us justice, rather than renew the charter of the Bank of the United States, as it is called, thereby furthering their views on this country, to lay our hand on the capital stock, or at least so much as belongs to citizens of the island of Britain, in order to

indemnify us in part for the damages we have sustained by British outrages, and, if it becomes necessary, (as I presume it will) to make use of it in defraying the expenses necessary in the subjugation of the North American provinces, which will have to be resorted to, if you wish to give peace to the land -- for I have no hesitation in saying, that, while this large foreign capital is in existence in your country, and the British hold their North American possessions, that British principles will be disseminated, that federalism if gentlemen like the term better, aristocracy will regularly progress, and finally convulse your Government to its centre. You may rest assured, sir, that if the charter of the Bank of the United States is renewed, it will prove a powerful weapon in the hands of our enemies, and will be calculated to rule the Government, instead of the Government ruling itself. Then, sir, is it not high time that the accounts of this colossal speculating institution should be suffered to close, by letting the charter expire on the 3d of March next, that we may know whether this Diana of the Ephesians, be a goddess of solid silver, or only of clay silvered over.

Sir, much has been said about the want of capital. If gentlemen would cast their eyes around, and examine our resources, they must be fully apprised that we have capital adequate, and beyond our wants. Then is it not time to cut asunder those leading strings, by which corruption has led credulity ? Yes, sir, it is not only time that we should have the name of freemen, but be so in reality.

Sir, in justice to my own feelings, and the future prosperity of my country, I am bound to vote in favor of concurring with the Committee of the Whole in striking out the first section of the bill.

Saturday, January 19, 1811.

MR. PICKMAN. I acknowledge, sir, that I feel very anxious to have the charter of the United States Bank renewed. Not from any personal interests which I have therein ---for I have none. Nor from a regard to the interest of the stockholders, for I consider that very unimportant, when compared with the interests of the Government, and of the community. This question has acquired an artificial importance from the manner in which it was originally discussed and in which it has been discussed at this time. It has been treated as a great constitutional question, when, according to my view, it involves no great constitutional principles. Ingenuity has surrounded it with a mist of sophistry which has obscured it, and presented it to the mental eye though a very delusive medium. I shall not attempt to follow the gentleman from New York (Mr. Porter) in all his nice and ingenious distinctions between the powers vested in the Federal and State Governments, nor in his metaphysical refinements on objects, ends, powers and means; but shall leave that task to gentlemen of more industry and more talent than myself. His observations, however, on the position laid down by the late General Hamilton, in his celebrated argument on this subject, appear to me so extraordinary that I cannot forbear to notice them. The position is, that every power vested in a government is, in its nature, *sovereign*, and includes, by *force* of the *term*, a right to employ all the means requisite, and fairly applicable to the attainment of the ends of such power, and which are not precluded by restrictions and exceptions specified in the constitution, or not immoral, or not contrary to the essential ends of political society. And to prove that the powers of the Federal Government, as to its objects, are sovereign, the following clause in the constitution is considered as decisive: "That the constitution, and the laws of the United States made in pursuance of it, and all treaties made or which shall be made under their authority, shall be the supreme law of the land." Now the words supreme and sovereign are synonymous terms; if there be any difference, the word supreme is of the highest import, it being frequently

applied to the Almighty himself. But the gentleman from New York, (Mr. Porter) as I understood him, observed, that the power to pass the supreme law does not give the Government sovereign power: for the highest law which any government can pass, is a law to inflict the punishment of death. The sheriff who executes this law, said he, is not, therefore, possessed of sovereign power. Certainly not; he is only the instrument of the sovereign power, as much so as the axe or the halter with which he executes the sentence. But "the Government is not sovereign because it is made to depend, in some degree, on the State Legislatures" ---if they were to omit to appoint Senators the Government would die a natural death. If they were to neglect it they would violate their oath to support the constitution of the United States. But, "the sovereign power is in the people." The sovereign and the physical power are often confounded together. The people, in their collective capacity, are as much bound by the immutable rules of justice, as each one is in his individual capacity. The people of the United States are under a constitutional and moral obligation to support the Federal Government; and it is not proper to presume that they will omit to do what it is their duty to do, and found an argument on such presumption.

But, to return to the subject of the bank. If we consider, sir, what are the purposes for which it was established, and what are the privileges with which it is invested, we shall, I think, find, that the former are not only constitutional, but highly necessary, proper, and useful, and that the latter do not interfere with State rights. The constitution of the United States vests Congress with the power "to lay and collect taxes, duties," &c; to pay the debts and to provide for the common defence and general welfare of the United States; "to borrow money on the credit of the United States; to regulate commerce with foreign nations, and among the several States; and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." It is, therefore, the right and duty of Congress to facilitate, and to render as certain as possible, the collection of the revenue. It is their *right* and *duty* to provide places of safe deposite for the public moneys; it is their duty to discharge the public engagements

with punctuality and good faith, and, if possible, to provide the means of transmitting the public moneys from one place to another, as the public exigencies may require, without the risk of loss to the United States. Has not the bank answered all these highly important and necessary purposes ? Can they be so well accomplished by any other means ? I presume not; for the ingenuity of those who oppose the renewal of the charter ---and certainly, sir, they have displayed much ingenuity--- has not suggested a plausible substitute. It is surmised that the public moneys may be transmitted from one part to another, in specie, which may be carried by land, or sent by water in Government vessels; or, that it may be done by the private drafts of merchants. The objections to these modes are too obvious to render it necessary to enumerate them. It is sufficient to say, that each of them would subject the United States to frequent losses, and the Government to constant disappointment. But, it is thought, by many, that the fiscal concerns of the Government may be conducted through the instrumentality of the State banks; and, in fact, it is the interest of the State banks which excites much of the opposition to the renewal of the charter of the United States Bank. In my opinion, however, it is an erroneous view of their interest. I apprehend that many of them will sustain a shock from the suppression of this institution, from which they will never recover. How can the public business now done by the United States Bank, be executed by the State banks ? Congress have no control over them; are ignorant of their funds; unacquainted with the conditions on which they are granted, and of the principles by which they are governed. Some of them are undoubtedly entitled to confidence, but many of them are not. It would be imposing on the Secretary of the Treasury an invidious task, and a most unpleasant responsibility, to make a selection. In every view which I can take of the subject, it appears to me that it would be the height of imprudence and indiscretion to suppress the Bank of the United States, and deposite public moneys in the State banks.

If, however, the privileges conferred, and necessarily conferred, on the United States Bank, are unconstitutional,

then it is our duty to suppress it. Let us candidly consider what these privileges are. The greatest, in my opinion, is, that its bills are receivable for duties. I do not know that any one has pretended that Congress transcended their powers in conferring this privilege. It is this, however, and this only, which gives its bills a circulation throughout, the United States; it is this which enables it to transmit large sums from one extreme of the Union to the other, as the exigencies of the Government require; nor do I see how this necessary privilege could be conferred on the State banks. Certainly it would not be safe to give it to all of them; and if you were to select a few, it would excite the most serious discontents. Besides, it is necessary that the banks between which this intercourse is to subsist, as that of drawing upon each other, should have a common parent to regulate their affairs, and to secure them from ruin from unexpected, and, of course, unprepared for, drafts. It is necessary, in fact, that there should be such an institution as the United States Bank; and the only question is, how shall it be established? By the State Legislatures, or the Federal Government? But, it is said that the establishment of branches in the different States, is a violation of the State sovereignties; and the gentleman from New York, (Mr. Porter) says it is so because the States have laws against usury, and that the bank makes more than lawful interest upon their capital, and thereby violates the laws of the States. This objection applies to all banks. Now, so far are the banks from having practised or encouraged usury, the suppression of it may be considered as one of the best effects of their establishment. The United States Bank is restrained by their charter from letting their money at a rate exceeding six per cent.; and I believe that this is not usury in any of the States; in some of them the legal rate of interest is higher. Their profits, over six per cent., are what they make as bankers and not as money lenders. It is said to violate the State laws, because the persons and private property of the stockholders are not responsible for the payment of its notes. This is the case with every artificial person; he is not accountable, in his private capacity, for the notes which he gives, or the contracts which he makes, as such. The

stockholders of the bank may be considered as public agents, and, as such, it would not be reasonable to subject their private fortunes to the payment of its debts, unless they abuse the trust reposed in them. Such a responsibility would render it impossible to establish the institution; nor is it necessary for the public security: for, it is next to impossible for a bank with such funds to become insolvent, if its affairs are honestly and judiciously managed; if they are otherwise, no guards will afford security to the public.

It appears to be thought by many, that, because the State Governments have a right to incorporate banks, therefore the United States' Government has not the right. Now, it is an implied power in the State Governments; for there is no such power expressly delegated to them in any of the State constitutions; they assume the right, because it is not prohibited to them. Upon the same principles has the United States' Government the right to establish a bank, provided it be necessary to the accomplishment of the purposes for which the Government was instituted. I again inquire, Mr. Speaker, if the fiscal operations of the Federal Government do not require such an institution? Has not the experience of twenty years fully evinced its utility to Government? Have not the public moneys been safely kept? Have not large sums been continually transmitted from one place to another, as the public exigencies have required, and without any loss to the United States? Why then suffer an institution, which has done so much good, which has proved so safe and so useful, to run down, and trust to precarious and unpromising substitutes?

But, while I am anxious to have the charter of this bank renewed, from a full conviction that the fiscal concerns of the Government cannot be managed with convenience, or safety, in any other way, I feel infinitely more anxious that it should not be suppressed at this time, on account of the community at large. Such an event must, in my opinion, be productive of the most distressing consequences. Perhaps there has never been a period when our merchants were more embarrassed than they are at present, and when it was more difficult to raise money. They have large funds in England, but at

present there is no demand for exchange upon that country. They have large quantities of imported merchandise, and the prices of most articles are merely nominal. The bank has seventeen millions of dollars due to it from the United States and individuals; it has to the amount of five millions of dollars in gold and silver in its vaults: there is due to it, from the State banks, about two millions of dollars, on their bills, and on deposits. It owes about fourteen millions of dollars, payable on demand; and it will probably be very soon called upon for this money. To fulfill its own engagements, therefore, it must immediately call for seven millions of its debts, and, within a short period, for the remaining ten millions; and this last sum must, eventually, be paid in specie. Whence is this specie to come? From the vaults of the State banks, if it be there: for the payments to the United States Bank will be in bills of the State banks; these bills will be immediately sent to those banks to be exchanged for specie. Thus they, instead of having it in their power to aid the debtors to the United States Bank, as some erroneously suppose, will be obliged to call on their own debtors, and every specie dollar taken from a bank, may, and probably will, oblige it to call for two or three dollars of its debts. It does not appear to me unreasonable to suppose, that, by compelling the United States Bank to call in the seventeen millions of dollars due to it, we shall compel the State banks to call in as large, if not a larger sum. How these payments are to be made, and what effects are to result from such a state of things, I pretend not, sir, to sufficient discernment to foresee. It will probably produce a general suspension of the payment of debts, and an almost total stagnation of business: it will greatly depreciate the value of every species of property, and thereby reduce many persons to insolvency, who flatter themselves that they have much more than enough to pay their debts. It will raise an enormous demand for money, and, of course, throw many persons into the hands of the griping usurer. It will distress all classes of people except the moneyed capitalist. If, in addition to this measure, our non-importation act should go into effect, thousands must be overwhelmed by ruin: the shock may first

be felt in the seaport towns, but will ultimately extend to the remotest villages in the country.^{\$}

I deem it, sir, a very unfortunate circumstance, that our paper circulating medium so greatly exceeds the amount of our specie; that so large a portion of it is the representative, of lands, houses, and merchandise, instead of being the representative of gold and silver. But this is not the fault of the Federal Government; it is owing to the numerous banks which have been instituted by the State Governments. This furnishes, to my mind, a strong argument against the institution of banks by the States, and in favor of the power being vested in the Federal Government, which superintends the affairs of the United States. As I have before observed, our paper circulating medium dangerously exceeds our specie; should we adopt a measure which will affect its credit, it will produce consequences which none of us can foresee. On the one hand, by continuing the bank, we tread upon perfectly safe ground; twenty years experience of it has proved that it is calculated to answer all the purposes for which it was established; it has proved very useful to our merchants, and to the community at large, not only by furnishing loans, but, also, by supplying a medium which circulates throughout the United States, and thereby renders it much easier for the merchant of the Northern States to purchase the productions of the Southern States. It may be truly said, that it has aided the agriculture, the commerce, and the manufactures of our country; its affairs have, generally, if not uniformly, been conducted with fidelity and ability. Yet we are about to suffer this valuable institution to fall; we shall thereby compel the Secretary of the Treasury to have recourse to untried, troublesome, and hazardous expedients, for the management of our finances, and we shall probably lead many of our fellow citizens into ruinous speculations. It is absurd, after the experience we have had, to ascribe to it any great political influence: it was established by the federal republicans when they were the ruling party; it has always been under their management. Yet, with this monstrous

^{\$} If true, it is all the more reason not to entangle the government's financial affairs with a private bank; not to join, at the hip, the government to a private money-corporation ---to segregate bank and state.

engine in their hands ---this engine which is to govern the Government--- their political opponents have gained an absolute and uncontrollable ascendancy. Continue it, sir, and you will probably do much good; suppress it, and you may bring on incalculable evils.

MR. WILLIS ALSTON⁷ said, that the motion to strike put the first section, was undoubtedly a fair way of attacking the principle of the bill; but as the same motive, even if he did hereafter vote against the bill, would not govern him as it had other gentlemen. He begged leave to state the reasons why he should vote against the motion. It has been contended (said he) by gentlemen who have gone before me in this debate, that the Constitution did not authorize Congress to continue this charter, or to have created it, in the first instance. I am opposed to this doctrine of the restriction of our powers, because I believe, if practised upon to the extent that gentlemen of great talents contend, the Government itself cannot get along. I do not believe that gentlemen can put their finger on the Constitution, and show their authority for a number of acts which we are compelled to pass, any more than they can put their finger on the particular passage which authorizes the granting this charter.

Sir, we are met on the threshold of this question, by the gentleman from Virginia, (Mr. Burwell) on constitutional grounds; and I will take the argument of that gentleman alone, and I think can prove, that he himself has given up the constitutional question. In the clause which many gentlemen have called the sweeping clause in the Constitution, I find these words:

"Congress shall have power to make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or office thereof."

The gentleman, well satisfied that this clause confers the power, attaches to it, to make it the more important, the word

"absolutely," before he is able to give any weight to the construction for which he contends. I have examined the constitution over and over again, for the word absolutely, and can find no such word. Where then does the gentleman get it from, but from the very same source that he charges on the favorers of the constitutional right to pass the law ? It is by implication, that he calls in the aid of the word absolutely before necessary. With what propriety, then, can he refuse to others the exercise of the same right that he himself has taken ? If gentlemen have the right to interpolate this word, why may we not as well interpolate others ? It is denied that the doctrine of implication can apply with respect to granting charters. If it can apply in any way, why not in this way ? If I can show to the House that it might apply in some cases, or it will be impossible that you can execute the object of the constitution, why may it not as well apply in the case of granting charters, as in any other. I ask gentlemen to put their finger on the clause of the constitution, which authorizes them to pay away one cent of the public money ? How do they get at the power, but by implication ? You have a power by the constitution, to pay the debts of the United States ---but that part which provides for the payment of debts, means debts already contracted, and owing at the time of the adoption of the constitution; that too is in the sweeping clause, which gentlemen will certainly not avail themselves of. But you have not the power expressly given, to create a debt, other than the clause which authorizes you to borrow money on the credit of the United States; but none will contend, that, by this you are authorized to make contracts, and go in debt. There is an important clause of the constitution, which gives to the United States power to call out the militia of the States for particular purposes. Show me the spot in the constitution which authorizes the payment of the militia. Not one. The power to call them out, implies the power to pay them. It inevitably follows, that the power to lay and collect taxes and raise a revenue, implies the power to take care of it. Will gentlemen pretend to deny it ? What is the argument of gentlemen on this point ? They say it is true, that a bank is necessary for the safe keeping and paying the debts of the United States; but,

say they, the banks of all the States are open to you. How does this doctrine apply to the United States ? Have not the States themselves denied the connexion of the State and Federal Governments ? Can I quote a State which does not afford an example of this disposition ? The seat of a gentleman of high standing in the Legislature of Virginia, was vacated merely because he was a contractor for carrying the mail. Will then the State of Virginia, who is so jealous of your influence over her officers, permit you to exercise that influence, by placing your money under officers created by her ? Let gentlemen examine this question. The argument will not bear them out. In the State which I represent, also, a law has been passed, to prevent a person from holding any office or appointment at the same time, under the State and Federal Governments. What right have the directors in a State bank, appointed by the State, to contract with the General Government to keep its money ? I deny their right.

Putting the State banks out of the question, it is necessary that we should create means by which we can transfer the money of the Government without expense, hazard, or loss ? I will state a case. We have an army in the city of New Orleans, which must be paid. By paying the money at Baltimore or Philadelphia, it is transferred to the paymaster at New Orleans, without costing you a cent. Is not this convenient expedient necessary to comply with the interest of the United States in the case I have stated ? I do not believe it possible, taking the ground that they have a right to place money in the banks of the individual States, that such a connexion between them could ever be established as with the same ease, convenience, and safety, as at present, to pay in the different parts of the Union money which the United States are bound to pay. I ask the question--- Will a bank in North Carolina trust a bank in New Hampshire ? No; but the State and every individual in it, would trust the Bank of the United States. You could not establish a connexion between North Carolina and New Hampshire, so that either would trust the other. The establishment of the Bank of the United States, affords in this case, a facility useful and absolutely necessary, in my opinion, to carry on the measures of Government. How will putting

down the Bank of the United States have an effect to lessen the quantity of paper in circulation ? If I could think so, I would join the gentleman most seriously; but the very contrary, in my opinion, would be the effect. The Bank of the United States and its paper, serves as a controlling power, keeps the State banks in proper bounds; and prevents them from issuing a vast quantity of paper, which would inundate the country. They are very confident if they issue too much paper, that there will be a run upon them; because the interest of the United States Bank and the State banks, do not at all times go hand in hand. At this time it certainly restrains the circulation of State bank paper.

It is said, sir, that the States are not compelled to do particular acts which they are required to do. To be sure, the States have the physical power, but they are bound by the same solemn oath to carry into effect the constitution of the United States, that the members of this House are. It may as well be said, that the State Legislatures may, if they choose, refuse to appoint electors to vote for President and Vice-President, or elect Senators; but the obligation upon them is as strong as upon any other department of the Government, as it is upon the members of this House, to perform its duties. They have taken a solemn oath, and must perform its obligations.

Sir, there is one part of this constitution, which, in my humble opinion, gives the power completely. It is a part of the constitution which I never heard any gentleman mention, nor any writer on the subject. I may put an erroneous construction on it; but if I am correct, the conclusion is inevitable. In the 10th section of the first article, it is said, "No State shall coin money, emit bills of credit, or make any thing but gold and silver coin a tender in payment of debts;" and the interpretation which I give to it is, that the United States possess the power to make any thing besides gold and silver, a legal tender. If this, then, be the correct construction, it is a clause which I have never before heard relied on. If, what I conceive to be the fair interpretation, be admitted, it must follow, that they have a right to make bank paper a tender. Much more, then, sir, have they the power of causing it to be

received by themselves in payment of taxes. If they have power to make paper of any description whatever, receivable in payment of all debts whatever, can any one deny that they have a power to make it a tender in payment of taxes or debts to the United States ? After admitting the power, will you place the exercise of it in your Secretary of the Treasury, or in the hands of fifteen or twenty men whom you call directors ? But I might not have voted against concurring with the committee in striking out the first section of the bill, if I stood on this ground alone. To the bill in its present shape, I should have no hesitation in giving a decided negative; but there is a plan on which I would vote for the renewal.

Sir, I ask gentlemen who have voted against it on constitutional ground, to meet me on this point--- the plan is, that the additional stock shall be taken wholly by the United States; that they shall be bound to distribute it among the individual States, having respect to their relative numbers, at its par value. The States would take it if they think proper; if taken, there is an end to the violation of State rights. In a plan of this kind, a distinction is brought to the mind of every man, whether he will prefer the interest of the great body of those people who are represented in the State Legislature, or whether he will support the interest of a few who think proper to incorporate themselves for the support of a bank. The true question is, whether the emoluments of the banking system should belong exclusively to a few, or collectively to the whole United States. I therefore hope, the first section will not be stricken out. In discussing the detail, such a plan would be more interesting than any other can be to the States. The advantages of such a system must be seen. The anxiety evinced for the renewal of this charter, and the credit of the State banks altogether, in consequence of the money made by the banking system, is then done away. The money arising from the profit of the banks will belong to the States in their individual capacity, and the taxes of every individual lessened in proportion to its share of the capital. Let gentlemen bring the question home to them; let them examine how it concerns their constituents, and put the question which of the two will interest the great body of the people the most.

Putting down the charter of the United States' Bank will not put an end to the banking system. Cast your eyes about you at what has taken place at the last sessions of the State Legislatures ? **Has one of them adjourned without establishing a bank ?** It is bank paper as much when issuing from State banks as when from the Bank of the United States. There is no sort of difference. If this question had not been attacked on constitutional ground; if it had been left merely to expediency, I should not have troubled the House on the subject. I know too little of the concerns of a bank to think of making a speech on the details alone. But I know how much interest moves us on this question. When you place money in the State banks, you give a complete license to the State banks to issue what they please. What was the loss of paper money during our revolution ? Did it not fall on those who had given credit ? And are we prepared to meet such a shock as that ? Could we have stood it in any other cause than that in which we were engaged ? Here let me enter my protest against the banking system altogether; but we have it. Is not the consequence more dangerous, will not the loss ultimately be greater, to let the State banks issue paper at will, than to control them by the Bank of the United States ?

If the doctrine which gentlemen advance, about putting the finger on that part of the Constitution which gives power to carry on the Government itself, be true, we may as well quit legislation altogether. You cannot go a single step without calling in the aid of implication. When a means is necessary and expedient; when the operations of Government cannot as well be carried on in any other way as by it, then it is necessary, and, being necessary, is constitutional.

MR. KEY. Mr. Speaker: This House, in Committee of the Whole, having struck out the first section of the bill in relation to the charter of the Bank of the United States, and thereby defeated the bill; and this House being called upon to concur with or reject the vote of the committee, a question of the utmost magnitude and importance is presented to our consideration. Few subjects more deeply affect the welfare

and prosperity of our country, and none deserves a more calm and temperate investigation. I shall not attempt to excite the feelings of the House by painting the scenes of distress that will probably flow from a non-renewal of the charter; but address myself entirely to your understandings.

All parties seem to concur in the utility and convenience of the bank to aid the collection and payment of our taxes and revenue, to safe keep the amount, and distribute it when wanted. But many deny that we have, under the constitution, a right to incorporate a bank even for such purposes. I have listened with pleasure to the arguments urged by those who deny the right, and have weighed them with attention, and soliciting the same indulgence from them in return, I do not despair of producing conviction.

I shall contend, that we have a right to create a national bank, and that it is our duty to do so, to avoid the general calamity that will result to the country, if we fail to do it. I beg of gentlemen to take the constitution in their hands, and follow me, step by step, while I demonstrate the existence of the right.

The eighth section of the first article of the constitution, contains the grant of powers given to Congress, to enable it to conduct the affairs of the Union. The powers given are enumerated and specified, being eighteen in number. In the first we find these words: "The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises, shall be uniform throughout the United States." These words give to the United States, a definite, explicit power, "to lay and collect taxes, duties, imposts," &c. ---the only qualification of the power is, that the duties and imposts, not the taxes, shall be uniform. The eighteenth enumerated power is, "for Congress to make all laws which shall be necessary and proper for carrying into execution the foregoing powers," &c.

The powers thus given to Congress are sovereign in their nature, and explicit in their terms of grant; but the jealousy and provident wisdom of the framers of the constitution,

knowing that the power might be abused in its exercise, have, in the ninth section of the first article, enumerated seven specific limitations or restrictions of the powers previously given. The grant of power is in affirmative terms; the restrictions are in negative terms.

The general grant of power, "to lay and collect taxes and imposts," &c. given in the eighth section, is thus restricted in the ninth: "No capitation or other direct tax, shall be laid, unless in proportion to the census," &c. Secondly, "No tax or duty shall be laid on articles exported from any State." It is a sound rule of construction, and is founded in common sense as well as wisdom, that, where a grant creates a general power, and enumerates exceptions to its exercise, the expression and enumeration of those exceptions, operate to exclude all others; because, having exceptions in view, and having specified some, it demonstrates that if others had been intended, they would also have been expressed. This rule is so true, that it has long been a maxim, that, "*Expressio unius est exclusio alterius*," and governs the construction of all grants and instalments in public or in private life. I am then warranted in saying, that the grant of power "to lay and collect taxes and imposts, &c. provided the latter are uniform," is fettered or restricted by no other limitation than the two above expressed in the ninth section; and it follows, that we can make any laws necessary and proper to lay taxes, if we do not violate the restrictions interdicting us from laying a tax on exports, and a capitation tax contrary to the proportion of the census.

Mr. Speaker, an honorable gentleman from Virginia, on the constitutional question, limits the power of Congress, by what I call an interpolation in the constitution. The words of that instrument expressly give Congress the power "to lay and collect taxes," and "to make all laws necessary and proper to carry those powers into effect;" but the honorable gentleman adds, that "necessary," means indispensably necessary. To this, I answer, that the word indispensable is not used in the constitution; the words used are, necessary and proper. The error into which that gentleman and an honorable member from New York have fallen, is a want of precise meaning of

the terms they use, or rather confounding two things, in their nature essentially different. They confound the means or mode by which an end is attained, with the end itself, and nothing can be more erroneous. The end, or power given, is to lay and collect taxes and pay the public debts; the power to make laws necessary and proper to effect that end, is also given, and consists in devising and establishing the means of accomplishing it. The means to accomplish the end are nowhere restricted. All the restrictions are upon the power. The means or mode by which the collection is to be effected, is left to the wisdom and discretion of Congress making all necessary and proper laws for that purpose. I lay down this proposition as universally true, that where a power is given to do a particular act, as "to lay and collect taxes and pay the public debt," that it necessarily results that the party to do the act, may do it by any mode or means he pleases, (if more means than one exist) if such mode or means are not prohibited; and I further state, that the party in executing the power, is imperatively bound to use the means best adapted to accomplish the end. If, then, which seems generally admitted, a bank is useful and necessary in the collection of taxes and imposts and payment of the public debt, and is the best mode of effecting it, the creation of a bank for such purposes is definitely within the power of Congress. And more; it is the bounden duty of Congress to establish it; because they are bound to adopt the best practicable, or, in other words, necessary and proper means to collect the tax and imposts.

If more means than one exist to carry a power into effect, neither can be said to be indispensably necessary, because either may be adopted to the exclusion of the other; and this mode of reasoning, pushed far, proves, that, where more means than one exist to execute a power, the power is a dead letter.

That the creation of a bank, is a means to excite a given power, and not the power itself, will follow from a careful view of the subject. Here my opponents and myself are precisely at issue. They say the creation of the bank is a power not given by the constitution. I state it to be a means of executing a

power given, and not the power itself. Let sound reasoning test our principles: what is a power, but an authority to attain a given end ? What is the power given in this case ? Let the constitution speak for itself: "to lay and collect taxes, imposts," &c. and pay the public debts. Now, the power and the end are express, definite, and precise: there is but one power and one end; human ingenuity can make no more out of the words of the constitution; but there are many means by which the power may be executed, by which the end may be attained, and those means are vested in Congress, by the power expressly given them "to make all laws necessary and proper to execute the powers before enumerated."

Congress is a body politic and incorporeal, and must use some agency or means "to carry a power into effect. To do it in this instance by the agency bank, is one means; to do it by the appointment of officers to collect the taxes, is another; to make the debtors themselves pay into the treasury, is a third. Now is it not an equal exercise of power, to create and appoint officers to collect, preserve and pay away public money, as to create a bank for that purpose^{\$} ? The power is the same, though exercised in a different way; but the mode of its exercise does not affect the nature or essence of the power. This is most clear; and I ask gentlemen, in the sense they use the word power, where is the express power in the constitution, to appoint and pay officers to collect taxes? Certainly it grows out of the power "to make all laws necessary and proper," &c. and is nowhere else to be found; then the necessary consequence is, that the creation of a bank, or the creation of officers, to collect taxes and imposts, &c. is not a constitutional question, but of sound discretion, as most suitable to promote the public good, and the House has power to adopt either, as in their judgment shall be found most necessary and proper.

Now, for the great objects of economy in collection, safety in keeping, and facility of paying it away, as, and where the exigencies of Government require, a bank has a decided preference over the appointment of a multitude of officers, with salaries or commissions, the chance of negligence, the

risk of loss, and almost insuperable difficulty and embarrassment of transmission, at home or abroad, I trust, Mr. Speaker, that I have shown, that, correctly viewed, the creation of a bank is a means, not an original power; that, as a means, it is best adapted to the end or execution of the power; and that, to attain the end, a full, express, definite grant of power is given by the constitution.

But, sir, I ask, is our Government never to settle down to stability, an object so desirable and so important to the happiness of the People? If, from the inexplicitness or imperfection of language, doubts have existed, which have been decided by the concurrence of this House, the Senate, and the illustrious Washington, in the exercise of their constitutional functions, and twenty years last past have exhibited a practical commentary on the constitution, ought we not now to regard it as sacred ? Has not Congress, and have not all the States, sanctioned the legitimacy of the bank, by passing penal laws against counterfeiters of its paper ? Have not many of the judiciaries inflicted imprisonment and deprivation of liberty, on offenders under those laws; and are we now to be told, that the original law which induced all these punishments, is unconstitutional, and of course, no law? But, sir, I will not repose my argument on the fact of long acquiescence in the States, nor of acquiescence under the administrations of Washington, Adams, Jefferson and Madison; I will advance a step further, and show that this House, under the administration of Mr. Jefferson, and that Mr. Jefferson himself, did, under his own hand, acknowledge the legitimacy, and consequently the constitutionality, of the bank.

In 1804, Mr. Nicholson, of Maryland, made a report, authorizing the Bank of the United States to establish an office of discount and deposite at New Orleans; a bill was drawn, it passed this House, it passed the Senate, and was signed by President Jefferson[§] the day it was presented to him. It was entitled, "An act supplementary to the act, entitled An act to incorporate the subscribers to the Bank of the United States." Here let us pause; it is really ludicrous, sir, to see the gravity

§ Thomas Jefferson is still alive, why don't you ask why he signed that act, and would he sign the renewal of the charter ?

and wisdom of the nation, engaged in passing a supplement to an unconstitutional law. One would suppose, sir, that if the original law was brought into view, if deemed unconstitutional, the object of bringing it into view would be to repeal it; but what was the fact? Why, the very reverse took place; instead of repealing it, they enlarged the powers of the bank. Now, sir, I call on honorable men to answer me with precision; to meet two questions in the teeth: First, Was it not as unconstitutional to enlarge the powers of the bank, as originally to create it? Second, Is not the enlargement so far as it goes, a new creation of power? Gentlemen cannot escape from these questions, by saying, that the bank had this power before the act of 1804 I deny it; but for the sake of argument, be it so? Then I ask, why was that supplement passed? And was not the passage of the supplement a direct affirmative recognition of the power, if already in the bank, and to give it to them, if they had it not.

Sir, I will trouble the House no longer on this part of the subject. I trust I have satisfied gentlemen that we have authority to create a bank under the constitution; that this authority has been acted on by federal and republican administrations; and the united States and the States have acquiesced in it, and sanctioned it many years, without murmur or remonstrance.

Mr. Key then proceeded to examine the question on the ground of expediency, &c.*

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The remainder of Mr. Key's speech does not appear to have been published.

Monday, January 21, 1811.

Mr. Newton moved to postpone indefinitely, the further consideration of the bill, but withdrew his motion until more members should come in.

Mr. Garland said, that on this very important subject, the House ought to act understandingly and prudently. He wished that they should not precipitate the Government into difficulties, from which it would not be easy to extricate themselves. He wished at least, that they should take a little time to reflect: that his friend from Virginia (Mr. Love) should be permitted to go on, and take out his letters of administration, as proposed on Saturday, and see what could be done. If the gentleman could show that the Government could conveniently carry on its fiscal operations without the bank, Mr. Garland said he should be ready to go with him. But, until that were shown, he did not wish a decision precipitated. He, therefore, moved to postpone the further consideration of the bill till the first of February. There would in the interim, be time to see how they could form their plans, and how they would be able to conduct the fiscal operations of the Government. If a suitable substitute could be offered for the purposes of collecting and transferring revenue, it would be the means of reconciling many gentlemen to vote against the bank. He hoped, therefore, that the postponement would be agreed to.

Mr. Newton said the House had had ample time for reflection on the subject. He did not believe that any alteration would be wrought in the opinions of members by a postponement. Gentlemen ought to recollect that the subject had been under consideration for three or four years past. Every one had revolved it in his mind. Sir, said Mr. Newton, I know these moneyed institutions. I know what sort of things they are; and after the time we have had to consider the subject, I think it all important, that we should come to a decisive determination. Let me tell you, sir, that intrigue and artifice will wear away the best principles. Ample time has been given for it already. I am for laying the legislative axe at

the root of the evil: I am for immediately deciding this question, and turning to some other business, and for this purpose, move that the further consideration of the bill be indefinitely postponed.

The motion of Mr. Newton superseded that of Mr. Garland.

Mr. Love said he rose principally, at this time, to ask for the yeas and nays on this question. He thought with the gentleman last up, that it was highly important that there should be an immediate decision, and he would add to the reasons already offered in favor of it, another. It is now three years, said he, since Congress were called upon, in the most imperative terms, to act upon this subject. In the petition of the stockholders, three years ago, it will be recollected, that it was stated that, unless a certain assurance was given, that the charter would be renewed, they must immediately commence a curtailment of their discounts, &c. We have now progressed to within six weeks of the time when this institution will cease to exist; and, yet, we find, by an inspection of their accounts, that they stand very nearly in the situation in which they were at the time the subject was first brought before Congress. If this company were not to have their charter renewed, the sooner they know it the better. On the part of the Government, it is important that an early decision should be had, that they may not run the risk of losing revenue to an immense amount; for, who knew who was to administer on the assets of this institution? In consequence of the law now in existence, requiring deposits to be made in the Bank of the United States, and its branches, there would soon be within their control, in specie and bonds, an amount of sixteen millions of dollars of the public property. Under present circumstances, it is highly proper that immediate measures should be taken to withdraw these deposits. Every gentleman, before this time, must have had an opportunity to make up his mind; and I hope the question will be decided without further delay. As the mind of no gentleman in the House could be changed by a discussion, it is to be hoped that the question will immediately be taken.

Mr. Troup conceived the motion now made to be perfectly proper. He felt, however, under no obligation to accommodate the bank. The act granting an act of incorporation was entirely a voluntary act, and the duration of it limited in the act itself, to a term of twenty years. If the bank had acted the part of an ordinary or discreet merchant, it would have taken care, before the expiration of its charter, to have wound up its business, and be prepared to meet the event; because, the Legislature was not bound to renew it, not having, either by the original charter, or by any subsequent act, given any pledge, that it would do so. The bank not having received any pledge of renewal, ought to have been prepared for its dissolution. If the institution had done what they ought to have done, the Government, so far as it is concerned, would have prepared itself against the event, as he was told it was now about to do, by substituting arrangements with the State banks, for arrangements with the United States Bank, or its branches. Mr. Troup could, therefore, see no difficulty in assenting to this proposition, whether as respected the Government, or as respected the individuals concerned in the bank.

Mr. Fisk inquired whether it was understood that the deposits in the United States' Bank would be transferred to the State banks without the sanction of law ?

MR. WRIGHT.⁸---

Mr. Speaker: The importance of this subject, and the great attention that has been paid to gentlemen while delivering their opinions upon it, is a sure guarantee that I, also, in my turn, shall receive the attention of this House, while I deliver my sentiments. I pledge myself, in this exhausted state of the debate, not to consume more of their time than a correct sense of duty to my constituents shall impose.

This subject, sir, is presented to our consideration in a two-fold point of view: as to its constitutionality, and as to its expediency. I will, therefore, proceed to consider it in that order.

On the point of its constitutionality I shall take the liberty to recall your attention to those parts of the Constitution on which its advocates have seemed to rely. The gentleman from Maryland [Mr. Key] cites the 1st article, 8th section,

"Congress have a right to lay and collect taxes, imposts, duties, and excises, to pay the debts, and provide for the common defence and general welfare of the United States."

He also read the 1st article, 9th section,

"No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken."

However, not yet himself satisfied with being able to derive an authority from these sections, he calls in aid the last paragraph of the section,

"Congress shall have power to make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

The gentleman insists, that the power to lay and collect taxes, &c. &c. and the sweeping clause empowering Congress to make all laws necessary to carry that power into execution, will authorize Congress to grant a charter to this bank; that it is necessary to the collection of taxes, that Congress provide by law the means whereby the taxes should be paid.

I had always presumed that the power to lay and collect taxes, to provide for the general defence and common welfare, only authorized Congress, under the limitations of the Constitution, to provide by law for those purposes, by directing whether the tax should be a direct or an indirect tax, or by capitation; and that their powers extended no further than the specification of the objects, if the tax was direct, and the rate at which the specific articles should be valued in the case of a capitation, what should be paid by the head; and, in the case of indirect taxes, what should be the duty on the several articles taxed; and, in either case, to direct the mode of ascertaining and collecting the same; by whom to be ascertained, and by whom collected, and to whom paid.

But I never did suppose that this power, even aided by the sweeping clause, could be conceived, seriously, to extend to the providing means to those who had to pay the tax, whereby they were to be aided in the payment. Such a construction would as well justify the passing a law, compelling the culture of land in a particular way, whereby the crops might be increased; as the farmer cannot pay his tax, unless he raises produce for sale; or, indeed, it might be extended to compel him to use plaister of Paris to improve his crop, and facilitate the payment; which I should deny, even if the tax was made payable in produce.

The same gentleman seems to have relied on the article, "That no capitation, or other direct tax should be laid, but in proportion to the census," as forming an exception to the powers of Congress; and, I presume, means to infer, as this bill will not be a capitation tax, that Congress may pass it under their power "to lay and collect taxes," and the sweeping clause to carry their specific powers into execution.

Sir, the Convention never intended that Congress should have, or exercise, the power to establish banks, or they would have made use of apt words to have vested them with it. Bank, sir, is a technical term, and if they had intended that power, they would certainly have used that term. When it was intended to give any power, we find the Convention had no difficulty in expressing it: as, Congress shall have power "to coin money and regulate the value thereof, and of foreign coin." And here, let me remark, is an express power "to coin money," which, if we were left to legal construction, would be an affirmative pregnant that they should not emit bills of credit.

But, sir, we need not rely on construction to prove what powers Congress have not, as one of the amendments to the Constitution provides, that "Congress shall have no power that is not expressly given." And, to give a power by expression, is to use apt words for that purpose, and it of course becomes necessary to the power in Congress to establish a bank, that such a power should be given by such specific terms, as would, unequivocally, and without construction, convey the right.

As to the sweeping clause, "to pass all laws necessary to carry into effect the foregoing powers of Congress," the letter of this section confines its operation to the specific powers of Congress, previously enumerated, and can, in no sort, create constructive powers, or be construed into a creation or extension of power.

Sir, if a doubt can remain of its harmless and inoperative nature, I trust it will be removed by a reference to the second volume of the *Federalist*, page 202:

"It is expressly to execute these powers, that the sweeping clause, as it has been affectedly called, authorizes the National Legislature to pass all necessary and proper laws. If there be any thing exceptionable, it must be sought for in the specific powers, upon which this general declaration is predicated. The declaration itself, though it may be chargeable with tautology or redundancy, is at least perfectly harmless."

Here we find one of the framers of this instrument, when defending this article called the "sweeping clause," from the charge of being used to extend the powers of Congress, or to embrace other than the specific powers, himself confining it to the express powers, and, indeed, declaring that it gave no power, was a mere tautology. Yet gentlemen seem to think that it is an important delegation of power, and confidently quote it as such; and, indeed, if their construction of it was indulged, it would discharge us from every constitutional obligation, that we, in our discretion, might suppose the public good required; but I trust the good sense and patriotism of this House will never suffer it to substitute discretion for expression, their will for the law.

An honorable member from North Carolina, [Mr. Alston] has, with some confidence, cited the 10th section of the 1st article: "No State shall emit bills of credit, or make any thing but gold and silver a tender." He urged this denial of the right to the States to emit bills of credit, as a perfect prohibition of the States to grant bank charters, and insisted that bank notes were bills of credit. He spoke of this section as a discovery of his own, not noticed by any body before him, as applicable to the case. Sir, the gentleman certainly misapplies the term "bills of credit" to "bank notes." The term "bills of credit," was

surely intended to express and prohibit the emission of paper money, which had been emitted by the States and by Congress, during the war of the Revolution, and had so depreciated, as to impress the Convention with the propriety of prohibiting their emission in future.

By a recurrence to the proceedings of the old Congress, and the laws of the several States, it will be found that the term "bills of credit," was technically used for paper money; nor can there be less doubt that bank notes have also their technical meaning, as the paper issued by bank directors; and neither of the terms "bills of credit," or "bank notes," could, by men of legal intelligence, be used for the other. "Bank note," and a "bill of credit," are terms so well known to the law, that, in legal parlance, neither could be substituted for the other. On a prosecution for counterfeiting either, the other could not, I apprehend, be given in evidence. I must, therefore, insist, that the gentleman's construction of the Constitution is incorrect.

But, sir, if it was correct, and the States could not grant bank charters, would it follow that the Government of the United States would possess the right? I presume not, unless that article of the Constitution, which declares, "that all powers not granted to Congress are reserved to the States, or the People, shall be blotted out of the instrument, or totally disregarded.

Sir, I hope we have not already arrived to that lust of power; and I trust the present case, when its expediency comes to be examined, will not seduce any member of this House from his regard to this hallowed instrument.

Sir, the Secretary of the Treasury, [Alexander Hamilton] at the time of the passage of the law establishing the United States' Bank, and who may be called the father of it, labored with unceasing assiduity, in every stage of it, to give it a legitimate existence. We see him, sir, insisting on the power to grant this charter, as conferred by the section that authorizes Congress to lay and collect taxes, and by the sweeping clause, "to pass all laws necessary to carry the preceding powers into effect," any thing, in his opinion, in the *Federalist*, before

cited, as to the harmless quality of the sweeping clause, to the contrary notwithstanding.

Sir, we see him driven from these stands by the Attorney General, [Mr. Randolph] and by the then Secretary of State, [Mr. Jefferson] the last of whom insisted, that a proposition in the Convention, to authorize Congress to grant corporations, had been rejected; which so thoroughly closed the case, that we find Mr. Hamilton, although he questioned the authenticity of the document relative to the rejection (by the Convention) of the articles alleged to have been rejected, taking post behind that article of the Constitution, that "Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory, or other property, belonging to the United States," and insisting, that the shares of the stock contemplated to be subscribed by the United States, would bring the law, granting the charter, within that section which authorized the United States to make all needful rules and regulations respecting the property of the United States.

But this would not justify a renewal, as Congress have sold their stock. Thus, sir, we find the advocates of this power in Congress to grant a charter to the Bank of the United States, fixing on a variety of the sections of the Constitution, from whence they infer we have the right. And, although, by the express letter of an amendment to the Constitution, Congress can exercise no power not expressly or specifically granted, yet these gentlemen insist we have the right, although they cannot agree among themselves on the article by which it is specified; and, indeed, each is an authority against the other, that the power is not granted at all. And although they all agree on its being constitutional, they are as much at a loss to fix on the article by which it is made so, as the ladies of Strasburg were to decide on the composition of Sterne's celebrated nose; though they all agreed it was a noble nose.

The gentleman from Maryland says, Congress have, by the law authorizing a branch of this bank to be established at New Orleans, recognised their right to grant a charter; and insists that this ought to be considered as an authority to that purpose. Strange that the gentleman's zeal should so

transcend his judgment as to induce him to press so futile an argument. Congress, at the time of passing that law, had a right to make any law necessary for, and beneficial to New Orleans; it was then a territory, and, by the positive provisions of the Constitution, Congress have the power to make all "needful rules and regulations respecting their territories or other property;" they have exclusive legislation over it, and may make any law that a State could, as to its government, as well as any law authorized by the Constitution to be passed by Congress.

Sir, by this charter, the directors of this bank were authorized to fix branches in every part of the United States; and when Congress became the purchasers of New Orleans, they considered it a portion of the United States, and, of course, that the directors of this bank had the right to establish the New Orleans branch bank, and felt no hesitation to declare it by law, as they had a perfect constitutional right to make all needful laws for their territories, of which the Orleans territory then was, and yet is one. Yet, sir, this act of good faith in the nation, to this bank, is pressed as an authority to bind this House to consider the constitutionality of this question as settled; but the good sense of this body will secure the United States from the calamity of rechartering [this bank](#), and committing the best interests of this nation to its [foreign and domestic enemies](#).

Now, sir, having presented this view of the unconstitutionality of this question, I must beg the further indulgence of the House while I present also my view of its inexpediency.

Sir, this charter is very nearly allied to [the funding system](#); they had a coeval conception, and the same progenitors. They were [conceived in sin, and born in iniquity](#). The funding system was founded in the basest of frauds to the best of men: the war-worn soldier, whose necessities compelled him to part with his certificates, the price of his blood and toil during an eight years' war; and out of which the arch speculator, availing himself of those necessities, had trepanned him, at half a crown in the pound.

These certificates, sir, were landed to the holders, with their interest, at par, and with other certificates, for supplies for the army and navy, which had also depreciated, were funded at par; and although it was ably contended, that the certificates granted to the original holders only, should be funded at par, and that those held by speculators should be funded at a certain exchange. Yet, sir, such was the influence of that well organized band, under the auspices of the then Secretary of the Treasury, that no discrimination could be effected whereby Congress might have been justified in paying the poor soldier for his loss, by being obliged to part with his certificate at less than its nominal value; a loss occasioned by the inability of Congress to pay them at the time, agreeably to their contract; a loss by Congress forcing upon them these certificates, and their total inattention to the payment of them, for many years, and until they were possessed by the hopeful band of speculators, who were the active agents of this system.

As an evidence of its corruption, the Continental bills of credit which had been issued from time to time, were to be funded at one dollar in the hundred. They, sir, were as a circulating medium in the hands of the People, who, however honestly they might have received them for supplies to the army and navy, at the same time, and at the same price that their neighbors furnished them supplies for which they took their certificates, which this system funded at par for the benefit of speculators, while the holders of the bills of credit were funded at one hundred for one. Could, sir, any thing but corruption have prevented the discrimination between the original holders of the certificates and the speculators, or have induced the funding of certificates (for supplies furnished at the same time and the same price) at par, that denied it to those holding the bills of credit ?

This banking system was partly made up of these corrupt materials of the funding system, which composed a portion of its stock; was illegitimate in its conception, partial in its establishment, and corrupt in its administration; is a mammoth [moneyed aristocracy](#), violative of the Constitution, of unlawful origin, under the control of foreigners, who have

proved their principles, by the selection of its directors ---*all* Federalists. This stock was to be subscribed at a *short day* in Philadelphia, convenient only to that neighborhood; it was [therefore] partial. When, in Maryland, a bank is to be established by law, the proportion of each county is allotted to it; books are opened, and the stock subscribed for in each county; and why were not books opened in each State, and their portions of the stock allotted to them, as in Maryland ?

Sir, when we consider that the directors of the mother bank in Philadelphia are elected under the influence of foreign stockholders, to the amount of upwards of seven-tenths of the whole capital, we are not left much to conjecture, why these twenty-five directors are all of a particular political complexion, nor why a list of them, and of the directors of the branches, (as required) has not been furnished, as an agent here had it in his power.

Sir, I should have been glad of the list, as, being pretty well read in the biography of the people of this country, I should have been enabled to have pointed out, I have no doubt, a number of traitors to the Revolution, Burrrites, and embargo-breakers; the whole phalanx being at every stage of the republican administrations of this country, with few exceptions, opposed to every measure of those Administrations.

I am a little surprised at their temerity in asking, and expecting a renewal of that charter, by which its directors have used their influence corruptly, to control the measures of the Government, and the elections of the patriotic favorites of the People. We have seen a petition, signed by a number of the merchants of Philadelphia, addressed to General Washington, to ratify Jay's memorable treaty, a number of whom were known to have been its bitter enemies; and it is a well known fact, that the reason assigned by them for that act was, that they were induced to subscribe it under the threats of these bank directors, that, if they did not, they need expect no more accommodation at the bank.

We have seen, at Baltimore, their influence exerted in the memorable election between Gen. Smith and Mr. Winchester, where Edward Johnson, now mayor of Baltimore, and a bank

director of the State of Maryland, and Mr. Matthews, now and often a bank director, were put out because they had the presumption to think for themselves, and the temerity to vote for General Smith. These gentlemen were of unblemished reputation, and equally entitled to respect with their successors. I have not a single doubt but they did not suit the directors of the mother bank; they had supported a patriotic soldier of the Revolution, a sin of too deep a dye to be forgiven by this Britannic chosen band, who have lately put the seal to their principles in the election of Evan Jones, now president of the branch bank at New Orleans, who succeeds a gentleman of republican principles.

This Mr. Jones is said to be a refugee from the United States at the commencement of the American Revolution, and a British officer during that period, who has been lately more than suspected to be one of Burr's chosen band. If, at a time when the directors are soliciting the renewal of their charter, they can thus outrage every principle for which our patriots bled, and prefer the parricide to the patriot, at a time when the eye of the nation was fixed upon them, what, I ask, after a twenty years' renewal of the charter, may they not be expected to do, or how, in the case of a war with Great Britain, might they not be expected to act ?

How would a patriot of America be expected to act in supplying funds to our enemies, to prosecute a war against this country ? It would certainly be a treasonable adhering to our enemies, giving them aid and comfort. But, sir, we are told this is a harmless institution, all important to the fiscal concerns of the United States; influenced by no motives but the common good. Strange, indeed, would it be, to ascribe to the stockholders of seven-tenths of the capital of this bank, (reported by the Secretary of the Treasury to be foreigners) and known to be Englishmen, a disposition friendly to this country.

Sir, here is a strong foreign influence on the moneyed concerns of this country -- money has been correctly called the sinews of war--- and are we to suppose that Britons are not as much attached to their country as Americans are to theirs; or that the strength and influence of this institution will

not be put in full operation against us, when it has been committed to the care, and put under the direction of men, known to be in hostility to the best interests of this country ?

Gentlemen on the other side, however, insist that there is no improper influence to be apprehended, and deny it to be a party question, although it is well known to have originated in party, under the auspices of the great Federal leader, Alexander Hamilton; although it has been conducted by directors of the mother bank, exclusively Federalists; and although every Federalist in this House is now its advocate, it is said to be harmless. I think, sir, the placing in the hands of twenty-five directors, elected by stockholders, seven-tenths foreigners, to have the direction of twenty millions of dollars, when money is admitted to be the sinews of war, particularly when we consider their political complexion, and retrace their political conduct, cannot be safe to our Republican institutions, on the score of its moneyed influence; but when we consider the patronage of these directors, who, by the charter, have a right to establish as many branches in the United States as they please --say one to each State--, with the appointment of thirteen directors, a president, and seven officers to each branch, with as great accommodations as directors, and salaries to their officers averaging a thousand dollars a year, each making upwards of one hundred and seventy thousand dollars to their officers, and more to their directors -- sir, this is a patronage greater than is possessed by the President of the United States. And will any gentleman who regards the solid interest of this country, be disposed to give this aristocracy, organized as it is, and composed of such materials, the key of this treasury, with its privileges ?

I had always supposed that the Treasury of this country ought to be in the hands of representatives of the American People; they are said to hold the purse string of the nation's treasure, and not that body who now directs this bank. Have they not denounced the Administration, and every measure of the Government, and supported its most inveterate enemies ?

But, suppose them to have been correct in all their measures, ought the nation's representatives to give to foreigners, knowing them to be such, the immense advantages

flowing from the renewal of this charter, or to one set of her citizens this benefit, which they have enjoyed for twenty years, in exclusion of her other citizens, who, to say no more, are equally entitled to the favors of Government ? If, sir, we have the power, and feel it necessary to the fiscal concerns of the nation, to have a national bank, the eight millions two hundred thousand dollars held by foreigners in its funds ought to be withdrawn, and that share of stock distributed among the States, having an eye to the stock already held by citizens, so that the proportion of each State, agreeably to the relative census of the States, might be apportioned and subscribed, whereby the establishment might be purged of its foreign influence.

But, it is said, these foreigners will send their gold to England. Can any man of sound judgment suppose they would transfer their capital to England, and take four per cent. in England, and that in paper, when they can loan their money in this country, at six per cent. and get the interest in specie ? Sir, there can be no possibility of their exporting their stock in specie very speedily, when you take a view of the late report of the Treasury; they will not have specie to meet the specie engagements of the bank.

Sir, this institution was established by the Secretary of the Treasury without a bonus, or any solid advantage to the United States. He well knowing what had been the engagements of the stockholders of the Bank of England, at its establishment, and frequent extensions in its accommodations to the British Government; and that the derangement in its fiscal concerns had forced these extensions on that Government. He also well knew that, when the two insurance fire companies, the London and the Royal Fire Insurance Companies were established, with a capital of four hundred and fifty thousand pounds sterling each, they gave as a bonus to the British Government, one hundred and fifty thousand pounds sterling each; and yet this experience was not turned to the benefit of the United States; but, this charter was granted without any benefit but to speculators, who were holders of the funded debt, which was made a part of the stock of this bank.

Sir, in the provisions of the law for the establishment of this bank, whose capital was to have been ten millions of dollars, the stockholders were so favored, as to be permitted to go on as soon as four hundred thousand dollars were paid in, (one twenty-fifth part of the capital) and thus, on that small sum, they proceeded to business, and [soon] received an interest on fifteen millions of dollars; and so much in conclave are its concerns, and so much under the control of men of a particular political complexion, all the directors of the mother bank, at all times, have been Federal, or worse, many of them Tories, or monarchists; so that, as to its secrets, it might be compared to the inquisition; and being under such control, I have ever doubted the statement of its funds.

Sir, the humiliation of having such an assemblage of characters, selected by foreigners, to select directors for the branches in each State, has ever been truly grating to the honest feelings of Republicans, and violative of the rights of the States, to whom an independent Republican Government has been guarantied.

Sir, there can be no necessity for this bank. The State banks are abundantly sufficient to supply every requisition, if the United States' deposits are made in them. This goes all lengths to defeat the arguments of gentlemen, predicated on the principle of necessity, as vesting this power in Congress. There are banks, in Baltimore, alone, with a nominal capital of eight millions two hundred and eighty thousand dollars, four millions nine hundred thousand dollars of which is paid in; and if a nominal capital of the United States' Bank of ten millions of dollars, with four hundred thousand dollars only paid in, could begin and progress in business, is it possible to doubt that the banks of Baltimore, with four millions nine hundred thousand dollars paid in, already in operation, could not go on, with the deposits of the United States, and extend their business, so as to give every necessary accommodation to individuals, and the public ?

Can there be any magic in the United States' Bank ? Or can any honest American feel a predilection to its foreign stockholders, or to their hopeful selection of directors ? I trust

not. Therefore, there can be no cause of alarm; no danger to the fiscal concerns of the nation.

But, sir, many of the States have banks, and will no doubt conduct them as honestly and impartially as the United States' Bank has been conducted, and under the direction of men the United States may as safely trust, and on whom the public may as confidently rely for accommodation, unless, per adventure, some gentlemen might repose more confidence in foreigners, than in their own citizens. But I hope and trust there are none such within this sanctuary of the liberties of the nation.

We have been told by the gentleman from New York, [Mr. Fisk] that agriculture, commerce, and manufactures, will receive a vital stab, by suffering the charter of this bank to expire. This is a groundless phantom, produced by **the feverish fancy of this gentleman, laboring under the bank mania**. But, sir, if agriculture, commerce, and manufactures, were to feel it, in the extent suggested by the gentleman, I trust those classes of our fellow-citizens would bear it with fortitude, when they reflected that it could not be renewed, but by a violation of the Constitution of the United States; a violation of the rights of the States, to whom is guarantied an independent republican form of government; and perhaps a violation of our independence, for which the best blood of our heroes was shed on the altar of liberty.

This charter is a cancer on the body politic, which I hope we shall suffer the hand of time to eviscerate and eradicate, and no longer suffer any foreign agency in the regulation of the internal affairs of this country; and that we shall preserve our fiscal concerns from the influence of those, whose interest it is to destroy them. But, we are told by the same gentleman, that the Secretary of the Treasury, whom he calls the Chancellor of the Exchequer, has reported this bank as necessary to the fiscal concerns of this country; and I suppose, by giving the Secretary of the Treasury the title of Chancellor of the Exchequer, he wished to impress this House with the powers of that officer, in England, to give an imposing influence to the Secretary here; and while he advocates the interest of these foreign stockholders, he so far

forgets himself, as to introduce into our Government, a Chancellor of the Exchequer. But, I hope we shall exercise our own judgment, and be satisfied with our own Government, organized as it is, disregarding the principles of foreign Governments, and the interest of foreign stockholders.

Sir, we are told by the same gentleman, that Congress sold to foreigners two hundred thousand dollars of the stock in this bank, but a few years ago; and therefore we ought to renew the charter. Sir, the purchasers knew the tenure by which this charter was held, and the precise moment of its death; they bought it as it was, a perishable article, and the selling of the stock by the United States, ought to have been considered as the tocsin of its dissolution, at the time appointed for it. The claim to renew the charter on that ground, is as ridiculous, as for a man who had bought a horse, on his death, to demand another.

We are told of the vast inconvenience our merchants will experience, by not having an universally circulating medium. How, say they, can money be paid by a Bostonian, at New Orleans ? Sir, money is not paid in large commercial transactions; and if it were, would it not be an easy matter, if a merchant has Boston bank notes, to get the specie for them, and send that to New Orleans ? How, I ask, would he do if he wanted the money at the Havana, or any foreign port ? And why cannot he do the same at New Orleans ? Sir, this is the common lot of merchants; but, sir, if the gentleman had Boston United States' branch bank notes, could he get gold for them at the New Orleans branch bank ? No, sir, and a gentleman who had five hundred pounds in the United States' mother and branch bank notes, might have to travel to every State having a branch, to get the specie, as neither will give specie for the paper of the other, and are to that purpose foreign to each other.

Indeed, it has been suggested, as a practice, to secure the banks from a pressure for specie, to circulate the Eastern notes to the West, and so, *vice versa*, whereby the holders, on the fourth of March, will be put to great inconvenience in procuring specie for them.

Sir, the people of England had no national bank till the year sixteen hundred and ninety-seven, less than a century before the establishment of this bank, and they were enabled to conduct their great commercial concerns, to great advantage; and the United States had an extended commerce before the establishment of this bank, and I trust her merchants will be able still, to conduct advantageously, their commercial concerns, without our sacrificing the Constitution we are sworn to support, or being tributary to foreigners, whose interests I never can respect, when in collision with that of the American People.^{\$\$}

MR. BOYD⁹ SAID he was unwilling to give his vote on the question of indefinite postponement, without offering to the House, and those that he in part represented, his sentiments. I shall vote, said he, for the postponement; and, should that vote not prevail, then against the bill, in its present form, and every other in which it may be presented to me, for a renewal of the charter of the United States' Bank, predicated on the original grant: because, to my mind, it is unconstitutional.

And here, Mr. Speaker, you must allow me to go back and take a look at the time and manner of its creation, and how it originated. To my mind it was created in aid of the funding system -- and what was that debt, so created, not contracted ? Was it for the redemption of the bills of credit, called Congress money, that paid your army in the field, fed and clothed them for years ? No. Was it to redeem said bills that were paid to

^{\$\$} Yet, on March 14, 1816, Mr. Wright voted YES to the chartering of a second Bank of the United States !?

Friday, April 5, 1816---

"Mr. Wright said he was one of those who had aided in putting down the old bank, and was sure that, a thousand years after he was buried, his vote on that occasion would be a monumental proof of his worth, and his regard for the best interests of his country. He opposed it on the ground of inexpediency as well as unconstitutionality; but the supreme judicial tribunal had decided on its constitutionality, by often recognising it as a party, and it was now too late to insist on the objection.

"Mr. Wright argued some time in favor of the bill; and, adverting to Mr. Randolph's epithet that the bank was a scheme of public robbery, and his declared intention to hold as much of its stock as he could, Mr. Wright said his friend from Virginia ought to recollect that the receiver was always considered as bad as the thief, &c."

[then he voted against the indefinite postponement of the bill]

the farmer for his flour, beef, teams, hay, and supplies to the army ? No, no, sir. How, then ? Why, after those bills had so far depreciated that the farmers were unwilling to receive them, then certificates were given at the comparative price of those depreciated bills. Then, again, it became necessary to liquidate those certificates down to specie value. Were they called in then ? No, no, sir; no redemption yet -- and let me tell you, sir, it was that paper and credit that placed you in that chair, and me on this floor.

Well, next the Constitution is formed, and Congress set themselves about paying the debts of the United States, and some part of the several States' debt. Mr. Speaker, how was it done ? Runners go out, in every direction, to purchase those liquidated certificates, and they succeed at 2s. 6d. in the pound value, up to 8s. All the certificates funded did not, on an average, cost the purchaser more than five shillings in the pound. Now, sir, the bills, called Congress money, are all, or next to all, sunk in the hands of the holders, and fifteen shillings in the pound of the residue.

Now, sir, an act of general justice takes place ! The said certificates are funded at 20s, or their nominal value, to the speculator! and an interest of six per cent, per annum given to him; to pay which duties are laid, and money borrowed to pay the interest in advance of the revenue. A charter is now granted for a bank of ten millions of dollars, seven and a half millions of which was to be this aforesaid State paper, and two millions five hundred thousand in specie; and when a small part of that was paid in, they were allowed to begin their discounts, and issue their paper to double the amount of the whole capital! *viz*: twenty millions; these certificates drawing six per cent, making seven millions five hundred thousand of the stock.

Now, this part must, according to this statement, give to the stock holders eighteen percent, for the deposit of this State paper, and twelve for the residue.

Now, Mr. Speaker, I will ask where was the redemption for these bank notes so issued ? Surely not in the bank, for that was seven and a half millions State paper, as above, drawing six per cent. Not in cash, for that was not supposed to be

there. Therefore, to my mind, this was a great deception -- swindling, I will call it. Ah, but, say some, by this means you were furnished with a capital, and enabled to carry on commerce to a great extent. I deny the fact our capital was the produce of our soil and industry.

Banks, at best, are no more than a conveniency to merchants; and I respect honest merchants; they are useful and necessary; but I do not include bank stock jobbers, or men calling themselves merchants, without a capital; mere drones in the hive. No, sir, the latter is a moth to the commonwealth.

It appears to me, that this scheme of [banking is an evil in its operation](#), something like the faro table, always, in its operations at each round, depositing six per cent. to the stockholders ---for what ? The exchange of a note discounted, and the note so lodged the best of the two ! Ah, and is this indeed the capital of our country ?

Sir, I am lost in the chicanery. The banks enable us to over-trade on a false capital: depreciate our property; demoralise our citizens, and take or send the gold and silver out of the country. Let me state this a little further. I will suppose a line drawn at a distance from the sea of fifty miles, the whole length of the continent. I would ask, if the cultivation of that tract of country would be equal to the maintenance of themselves and those collected in the cities ? I believe not.

Then, again, let me suppose that, on an average, the whole length of our country we cultivate to the distance of two hundred miles from the sea board. Then, it appears that the average distance that we have to take all our transportable produce is one hundred and twenty-five miles. It is believed that the cultivated distance is, on an average, nearly four hundred miles, which will enhance the price of transportation, mostly by land, to the cities. Now, sir, at the general price, one-third, and in some cases one-half, is expended in getting the produce there. But this is kept out of sight, and much said about high and great prices obtained by the farmer. It is nominal, not real. It is paid them in depreciated bank paper.

Sir, I do contend that not only the bank paper is depreciated, but that, by the means of its abundance, the gold and silver is depreciated. One dollar, eight years since, was worth more than one dollar and fifty cents is at this day. Besides all this, I ask, is there cash in their vaults to redeem their bills ? No, no, sir; not for one-half. Thus, sir, are the People swindled out of their property to support gambling and chicanery. Is this what enhances property, and gives a capital to carry on commerce ? No, for myself, I think not. It is the product of our soil and our industry that is the capital, and on that we do and ought to trade; and that trade ought to be internal, turned to our own manufactories in a great part.

I do not say that banks are not convenient and useful, to a certain degree; but I do not think the advantage is equal to the disadvantage. I am well aware that such sentiments will be treated with ridicule; but, sir, that does not intimidate me; they are my sentiments, and, as such, I give them without the least fear of intimidation, having in view the happiness of my country; and I will venture to say, that the day is not far distant, if we progress as we have done with banks, that the country will experience an universal shock from this false capital.

Before you, sir, are propositions for charters of incorporation, within this District, for banks, to the amount of four millions. Can there be a want of capital ? If there is, how is this stock to be furnished ?

Mr. Speaker, we hear from Richmond, Baltimore, and Philadelphia, much said against the renewal of the United States' Bank charter, and I agree with them; but, I believe, from very different principles. The profits of the United States' Bank have been, from their issues, and the deposits of the revenue, and private individuals, immense; and **they want the cards in their own hands to play the same game**. I think they are not entitled to much credit. The odds consists in this: the one is against the Constitution, the other not; **the principle is the same** in both.

Mr. Speaker, if we must have a national bank, let it be so in reality. I shall not attempt to go into the detail of such an institution. It is not my purpose; but I think that it might easily

be done by making a portion of our public lands the foundation of such part as the United States should choose to subscribe or hold the bank to be created in the District of Columbia, and to extend branches into such States as, by law, would choose to accept them.

Sir, I had much more to say on this subject, but I perceive that the House is impatient, and I do not wish to detain them, and shall add no more.

[Mr. McKee](#).¹⁰ Residing, as I do, in a part of this country remote from the scene of bank operations, I had determined to say nothing on the subject, contenting myself by giving a vote flowing from the honest convictions of my heart; but the extraordinary manner in which this discussion has been managed, on the part of the opposers of the bill, by attempting to make it a party question, has compelled me to commence my defence of the vote I expect to give, on this motion. So far as I know, or believe, my suffrage in favor of a renewal of the charter of the United States' Bank is in conformity with the views and wishes of the people I have the honor to represent; and any change in their sentiments, which might be effected by the frequent appeals to their passions and prejudices, made in the form of argument, it becomes my duty to correct.

We are arrested in the threshold of this discussion by a constitutional objection, by which it is alleged, that Congress do not possess the power of renewing this charter. I had thought this question long since settled, not alone by those who originally granted the charter, but confirmed by Mr. Jefferson, and the votes of a republican Congress. I have been led to this opinion by a recurrence to the act of Congress of the 23d of March, 1804, by which the president and directors of the Bank of the United States are authorized to establish offices of discount and deposit in any of the territories or dependencies of the United States. A gentleman has said, this was a power possessed originally by the bank. If so, for what end was this law enacted? It must either have been enacted from an opinion that the charter could not,

without this aid, be extended to New Orleans, or that it was proper and necessary, in order to the well-management of the fiscal concerns of the country, that this institution should be extended to New Orleans. Either case answers my purpose: for, if the bank could not, without this act of Congress, establish an office of discount and deposite at New Orleans (which seems to me to be the better opinion) then the passage of a law, extending the influence, the power, and the profit of the bank, cannot be considered in any other light than a tacit and full acknowledgment, on the part of Mr. Jefferson and the republican Congress, that the charter was within the pale of the constitution: for, sir, can it be supposed that Mr. Jefferson and Congress, who were more republican in 1804 than at any other period, would have extended, bolstered up, supported, and cherished an institution, originally obtained by a violation of the sacred charter of our political rights ? No, Surely, it is impossible. And if, sir, this office of discount and deposite was induced to go to New Orleans because it was necessary and proper to be sent thither for the better management of the collection of taxes at that port, this circumstance admits the only fact necessary to be in proof to establish the power of Congress to pass the law.

If, sir, any additional proof could be wanting to show that the power of Congress, under the constitution, has been considered sufficient by this administration to authorize them to grant the charter in question, it is abundantly furnished by the act of Congress of the 24th of February, 1807, for the punishment of frauds committed on the Bank of the United States. By this law, Congress have subjected the citizens of the United States to capital punishment for counterfeiting the notes of the United States' Bank. Now, if Congress by the constitution had not the power, originally, to grant this charter, the notes of the bank were certainly issued in violation of the supreme law of the land, and Congress had no power whatsoever to pass a law making that criminal which was in itself no crime, and could not, by any conception what ever, be considered as a violation of any law of the United States. It seems to me to be perfectly paradoxical and absurd to say, that any institution, having no legitimate right to issue paper,

nevertheless has a right to the interposition of Congress in their behalf, making it a crime against the United States to counterfeit this paper, which was issued in violation of the supreme law of the land, ruder this act of Congress, the citizens of the United States have been deprived of their liberty as well as subjected to heavy fines, by the decisions of your courts. A citizen of Kentucky has been doomed to confinement in the jail and penitentiary house for a violation of this act of Congress, and he was not relieved from the fangs of the law by the President, (Mr. Jefferson.) How are these things to be reconciled on any other ground than by admitting the constitutional validity of the original act granting the charter ?

But it has been stated that this charter, when originally granted, operated in the nature of a contract; and that Congress could not repeal the act of a former Congress granting a charter; and hence the power to make, and propriety of passing the act in question. This idea is altogether fallacious, because it is an indispensable requisite to all contracts, that the parties thereto shall be able to contract. If the constitution vested no power in Congress to make the contract, it was absolutely void; and if the Congress of 1807 were thus impressed, they could not and would not have passed the law in question; and, therefore, I infer that they considered that the constitution had vested Congress with the power to grant the charter.

In addition to this, we find that the present Secretary of the Treasury, under the auspices of Mr. Jefferson, made a report in favor of the renewal of the charter of the United States' Bank, in pursuance of a resolution of the Senate, passed on the subject. This report called forth no animadversions from any section of the country; and I have ever understood, that, if this question had then been brought forward, it would have passed by a large majority of Congress. These circumstances have led me to suppose this question had received the ratification of every party, and of every administration; and, what is still of more importance and higher authority, the sanction and confirmation of the

sovereign People, and therefore considered as an adjudged case, tested by experience.

I shall not consume the time of the House by any enumeration of the powers of Congress, arising from the constitution itself, with a view to prove that Congress originally had the power to pass the law granting this charter, and still possess it, because this ground has already been occupied with great ability, and the power of Congress to pass the bill clearly shown, and any remarks which I might make would only be a repetition of the arguments of others. I shall therefore content myself by answering some objections made to the bill.

It is said the bank will be a thorn and a viper in the bosom of the United States, which will ere long sting the political liberty of this country to death. This is a strong charge, and if it is found to be true, it must be conclusive against the bill; but let us examine this bold assertion by the test of reason and experience. This charter was given by Congress twenty years ago. Since that time the constitution, and the political liberties of this country have been in the hands of our political opponents, and are now in our hands unimpaired. The country has, in the latter period, been prosperous beyond example. Agriculture has prospered, commerce has flourished, internal improvements have increased; the People have enjoyed peace, prosperity, security, and happiness, in a degree infinitely superior to that of any other nation on Earth. No deleterious consequences have grown out of this institution, affecting the security or liberty of the citizen or the country. It is said, and truly too, that ours is a Government of experiment, none similar to it ever having existed before. Here, then, is the test of experience in favor of this institution; and why discontinue it to try some devious and unknown track ?

But, sir, suppose there is something of truth in this statement, I ask if State banks are not equally as dangerous to the political liberties of the States, as this bank can be to the United States ? And, if the political liberties of the States are stung to death, I ask where will you find the liberties of the United States ? I believe they will sink with the liberties of the

States. But, if gentlemen are really serious on this subject; if they believe that banking is fraught with thorns, and not with roses, and wish to return to the state of native simplicity which existed in the pure ages of ancient Greece and Rome, I will unite with them as far as we have power in plucking up by the roots this monster, and make a common bonfire of the charters of every bank in the nation. To do less would not cure the evil, if any exists.

But it is said that this institution will destroy republican principles, and federalise the country. This bank, as I have already stated, was in operation in federal times; and, notwithstanding its influence, those times have changed; experience, the best possible test of human affairs, does not bear gentlemen out in this assertion. On examination we find, that the States of Rhode Island, Connecticut, and Delaware, are the only States in the Union who are represented in the Senate and in this House, exclusively, by federalists; yet there is not now, and never was, a branch of this bank in either of those States; but there is a branch bank in Georgia, South Carolina, Virginia, Maryland, New York, and Massachusetts, and the mother bank in Pennsylvania. The two first are exclusively republican States, and those parts of all the others, (except Massachusetts) where those banks are seated, are represented on this floor by republicans; whence, then, are found the facts to prove this assertion? or do gentlemen pursue a recent example, set by a certain great man, of giving opinions, when, with the same breath, it is acknowledged there exist no facts on which they are founded ?

The foreign capital employed in this bank is a ground of great alarm to some gentlemen. In answer to this objection, I would ask, if it ever has been, or if it is now, the interest or the policy of the States, or the United States, to exclude foreign capital from being received and employed in your country? Do you find any provision in the charters of the State banks, prohibiting foreigners from becoming stockholders? Is there any provision in those bills from the Senate, establishing half a dozen banks in the District of Columbia, prohibiting foreigners from becoming stockholders? To all these questions you are compelled to answer in the negative. So long as the profits of

agricultural pursuits, or commercial enterprise, furnish the adventurer with a good profit, over and above the price he has to pay for the use of the capital employed, just that long will he continue to employ it; and, if the capital is not to be found at home, application will be made for it abroad; and whenever capital becomes redundant at home, you will then exclude foreign capital. Before that time, the attempt would be unavailing: for, capital, like air or water, will seek its level. I have thought that foreign capital, in this country, would have had rather a salutary tendency, inasmuch as it would interest men of influence in the preservation of the peace and perpetuity of the Government. Mr. Jefferson must have been thus impressed, or how could he have permitted a sale of the bank stock of the United States directly to Englishmen; and he was certainly not chargeable with a predilection in favor of British influence. There is in England a class of men favorable to the prosperity of this country; and I have always understood that it is those alone who have interest in our funds. Besides, if this foreign capital is fraught with all those evils which gentlemen picture to themselves, the argument holds good against State banks, and goes to prove the necessity of their destruction also.

The gentleman from Maryland (Mr. Wright) has made some heavy charges against the directors of the United States' Bank and their management. I had thought it universally understood and admitted, that the management of this great moneyed institution had been exemplarily correct, and I have not before heard any thing of the kind laid to their charge. But, even admitting the charge to be true, it only proves, what may, I believe, be alleged and proved against every human institution administered by man, viz: that the institution, as well as the administration thereof, is imperfect. But I ask if the directors of three-fourths of the State banks in the United States are not federalists; and, therefore, why not put them down in mass ?

I beg leave to notice an argument which has been resorted to by all the opposers of the bill, when they have been told that the bank was both necessary and proper to the convenient and advantageous management of the public

revenues. The answer has uniformly been, that this difficulty could easily be obviated by the agency of State banks. This, sir, is certainly begging the question; because, an admission that bank agency is necessary to the collection of your revenue, and proper to be used in the management of the moneyed concerns of the Government, is an admission of the only fact necessary to be in proof to show, conclusively, the power of Congress to pass the bill in question. Besides, do not all the unhappy consequences, which, is it said, await this bank, attend the depositing your money in State banks? Will you not, thereby, give a circulation to the paper of the bank where you make your deposits greater than heretofore? and, by increasing the circulation of their paper, as well as by aiding them with your money to make more extensive discounts, you increase the profit and value of the stock. This circumstance will create an anxiety with all the State banks to obtain your deposits; and, hence, the United States, if they are so disposed, can operate through those favorite banks as effectually on the People of the States, as they could by the United States' Bank. You have all the evils of the United States Bank without any of the advantages; you also throw into circulation a heterogeneous mass of paper that no body knows any thing about, issued by establishments of whose solvency you know nothing. Will the gentlemen from North Carolina, or the members from Massachusetts, willingly receive their per diem in their own State paper? I believe they would not ---yet the effect of using State banks, for revenue purposes, will be to impose this paper on the People of the United States.

It is a rule, sir, which I have prescribed to myself, in the management of the concerns of others which may be committed to my care, in any character, to conduct them in such a manner as to produce no individual distress or loss, which may not be fully compensated by an equivalent certain public good; and I shall not relinquish the observance of this rule on this occasion. We are informed by various gentlemen, who are charged with the representation of the more commercial States, that great individual distress will be the certain consequence of a refusal to renew the charter of the

United States' Bank; and that the distress will fall, with accumulated weight, on those who have poverty and the frowns of fortune to struggle with, is evident; and, when I commiserate the woes felt by the citizens! of every part of our country, my attention, as it ought, is particularly drawn to the losses and distress which will be felt by my immediate constituents.

If this charter is not renewed, it is my deliberate opinion that the farmers of Kentucky will sustain a loss thereby to the amount of near 200,000 dollars; and I will now attempt to show that this opinion is not altogether chimerical. I am unable to state, with any great certainty, what is the amount of circulating medium of the United States; nor, indeed, is it necessary for me to state, with great accuracy, the precise amount. I suppose the whole circulating medium of the United States to be upwards of 50,000,000 dollars, and that of this sum the Bank of the United States circulates one-third. It is a fact, frequently stated in this House, and which stands undenied, that money, or circulating medium, is scarcer in the United States, at this time, than it has been for several years past, owing, perhaps, to the unproductiveness of commercial enterprise; or, if you please, to the natural increase of population, and the proportionate increase of demand for money. By refusing to renew the charter, you throw out of circulation one-third of the money of the country. The necessary and inevitable consequences of this act of the Government will be to diminish commercial enterprise in the same proportion, and, consequently, ship building and ship repairing will be diminished in a like proportion, and the materials, for this service, will not be wanting. By letters recently received from very intelligent merchants of Lexington, Kentucky, I am informed that 6,000 tons of hemp will have been raised in that State in the past year. The ship owners are the consumers of this article; for not one pound of it goes abroad, and from 6 to 9,000 tons of hemp is the quantity consumed in prosperous times in the United States. These 6,000 tons of hemp, together with what will be brought to the market from other States, will furnish an abundant supply for the present year, even admitting it to be a prosperous year. By

the refusal to renew the charter you lessen the demand one-third at least, and, consequently, you diminish the price of the article in the same proportion. But, sir, this is viewing the consequences arising out of the rejection of this act in the most favorable light. If the refusal to renew this charter should, as some gentlemen apprehend it will, bankrupt not only many individuals, but also some of the State banks, a general alarm may take place, which would, for a time, put an end to all credit and to all business. The consequences of such a state of things are much to be feared, and much to be dreaded, by every portion of the community.

It has been stated that the United States' Bank can be dispensed with in the collection of your revenue, and in the management of your moneyed concerns. I wish to know how gentlemen can make this statement. I perceive that General Hamilton, the first Secretary of the Treasury appointed since the adoption of the constitution, in his argument on the subject, decidedly declares that the bank is necessary for the collection of the taxes, and management of the fiscal concerns of the United States; and Mr. Gallatin, the present Secretary of the Treasury, makes, substantially, the same declaration to you in his report on this subject.

[Mr. Wright observed, that Mr. Gallatin had, in conversation, said that the moneyed concerns of the Government could be well managed without this bank.]

If Mr. Gallatin has so said, he then says one thing and reports a different thing; and is therefore inconsistent. But I take his official report as the best evidence of his opinion: and these men, having been charged with the management of the revenue for many years, and having the knowledge acquired by experience, certainly should know what is necessary and proper for the convenient and well management of the affairs of their department, and are therefore better authorities on the subject than any member of this House.

As to the remark made by some gentlemen that this is a party question, I have only to observe, that, if federalists do right, that can be no sufficient reason for me to do wrong, merely to oppose them; and if the suggestion that this is a party question, is to prevail against reason and common

sense, and parties are thereby to be marshalled against each other, under the banners of some leader, then, indeed, any thing that can say *ay* or *no*, is perfectly qualified to be a member of this House, and intelligence is laid aside as useless and unnecessary. Against doctrine of this sort I protest; and perceiving, as I think I do, great political as well as individual inconvenience and distress awaiting a refusal to renew this charter, which is not compensated by any correspondent public good; and perceiving, also, in the destruction of this institution, a want of stability in your institutions, which is a partial verification of the predictions of the enemies of republican government, which we ought to refute by our acts, I shall therefore vote against the indefinite postponement of this bill, reserving, however, to myself, the right of subsequently examining the details thereof.

MR. BARRY.¹¹ Mr. Speaker: The measure now under consideration is certainly important. It involves principles interesting both as they relate to the General and State Governments. The solicitude manifested for the renewal of the charter; the deep concern that is felt in some of the States; the serious and solemn manner in which this subject has been considered and acted upon by their legislative councils; the general agitation it has occasioned in the public mind; has not failed to command my most serious attention. I should, nevertheless, have been content to have left it to the discussion of others, abler and more experienced than myself, satisfied with giving such a vote as would comport with the honest conviction of my understanding; but the debate has taken an unexpected course to-day. The remarks of my colleague, [Mr. McKee] will not permit me longer to remain silent. As it is my lot to differ with him on this great question, I must claim the indulgence of the House for a few moments, whilst I endeavor, in as concise a manner as possible, to state some of the reasons by which I am actuated.

The baneful effects to result from the dissolution of the bank; the ruin that is to follow in its train; have been

11 William Taylor Barry (1784-1835), Kentucky; studied law, admitted to the bar; Post-Master General in Andrew Jackson's government.

portrayed in the most glowing colors, in a manner calculated, as it was no doubt designed, to awaken and alarm our fears. I shall not now enter upon this branch of the subject.

If, as I am most seriously impressed, the constitution does not authorize us to pass the bill, there is at once an end of the question. It is, Mr. Speaker, immaterial what consequences may result. No pressure of calamity, however great, can warrant a departure from, or violation of, that sacred instrument.

It has been said that this is a party question. The remark is just, so far as the principles which separate and distinguish the two great political parties in the United States shall be made to bear upon it; not that the declaration of any man can make it so. It is measures, not men, that should govern.

It will be recollected that, early in the history of our Government, the country was divided into two great political parties; the one endeavoring to extend and increase the powers of the General Government; the other attached to the State authorities, and exceedingly jealous of their rights. Under this state of things the constitution of the United States was framed. Soon after the Government went into operation under it, these parties again displayed themselves in the rules they adopted for expounding the constitution; the one contending for that kind of interpretation which would possess Congress with the most ample powers, sufficient to do whatever political expedience might dictate in providing for the common defence and general welfare.

This latitude of construction was considered by the other party as dangerous; that it would tend to consolidation; that, in this way, State rights would be encroached upon and their sovereignty impaired. They contended that the power of Congress was limited; that it must be confined to those powers expressly delegated, and to such as were necessary and proper to carry them in to execution. That this mode of construction resulted necessarily from the nature of the General Government, but was settled beyond all doubt by that clause in the constitution which provides "That all powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States or to

the People;" that, to step beyond the boundaries thus fixed, would be to enter upon a field of power no longer capable of being defined. Such has been my understanding of the views of the two parties; the one called Federal, the other Republican, or Democratic, if you please. I speak of parties as they were at the period I allude to.

It is remarkable, that, upon this very subject, in the year 1791, when the bank charter was granted, we find the most distinguished politicians of that day who were on the republican side, opposing it: and they did it under the guidance of those sentiments that had originally given rise and character to the party. For, although they did not admit the utility of the banking system, yet the great ground of opposition ---the strength of their argument--- was directed against the power of Congress to pass such a law. It was, sir, upon that occasion, that Mr. Madison, then a member of Congress, made that perspicuous and luminous argument that has been so justly celebrated as defining and marking out the proper limits of power assigned to the General Government. I have thought proper to make these preliminary remarks, to show what was the understanding of this measure at the time of its adoption. That it was then protested against as unconstitutional. Two articles of the constitution seem to be mostly relied upon by those who are in favor of the renewal. That which gives to Congress the power to lay and collect taxes, duties, imports, and excises, to pay the debts and provide for the common defence and general welfare of the United States, or, in other words, the power by which Congress is to regulate the financial concerns of the nation; and that which gives the power to make all laws necessary and proper for carrying into execution the powers vested by the constitution in the Government of the United States.

It has already been shown by gentlemen who have preceded me, by a course of reasoning, to my mind unanswerable, that the clause which enables Congress to pass all laws necessary and proper to execute the specified powers, must, according to the natural force of the terms and context, be limited to the means necessary to the end, or incident to the nature of the specified powers; that this clause was in fact

merely declaratory of what would have resulted by unavoidable implication, as the appropriate, and, as it were, technical, means of executing these powers. It was further contended, that the true exposition of a necessary mean was, that mean without which the end could not be produced. If this doctrine is correct, it puts the question at rest; as it has been most clearly shown that a bank is not a necessary mean according to this exposition. I shall not dwell longer on this head, considering it as already exhausted by argument. The word "proper" is, in my mind, an important and operative word in this clause of the constitution. The incidental power to be exercised must not only be necessary, but proper; that is, it must be appropriate and confined to the end in view. If it goes beyond it, if it involves the exercise of a power that tends to create a distinct and substantive thing, which, in its important operations, is entirely distinct from, and independent of, the power to the execution of which it was designed as a mean, it would most certainly be improper. Such an exercise of power would, in truth, be usurpation; and the end proposed becomes a mere pretence for the unwarrantable assumption of power.

To enable Congress to collect taxes, offices of deposit merely would be sufficient. But instead of confining the incidental power to be employed to the object it is designed to accomplish, you introduce a new system of policy, that has no more connexion with the management of the revenue, than it has with the power to borrow money on the credit of the United States; with the power to regulate commerce with foreign nations, among the States, and with the Indian tribes; or than it has with the power to raise and support armies or to provide and maintain a navy. The power to establish a bank applies equally as an incident to all the above-named powers, and is not strictly appropriate to either, nor is it confined to all of them collectively. If, under such pretence, you can erect corporations, our power in this respect is unbounded.

By this act, you form a society of individuals, invest them with extensive and exclusive privileges, who, instead of being employed as auxiliaries in the fiscal arrangements of the Government, set up for themselves, and go on upon a system

of money making. They issue notes that become a circulating medium, and forms a new species of capital. The institution carries with it a train of offices, influence, and patronage. It gives rise to an act of sovereign power, that no Government should ever be permitted to, or can derive by just implication, that of punishing those who may counterfeit the notes of this bank. Thus introducing into our code of laws a system of criminal jurisprudence never contemplated by the constitution.

It will be seen, as we progress in this inquiry, how this measure is calculated to affect the State rights, and to infringe upon their sovereignty.

If it is good policy to establish banks, and I am inclined to think it tends, when properly regulated, to promote the interest of society, the States will surely have a right to claim the benefits that may result from it; because this right they never have parted from. The profits arising from discounts, the advantage to accrue from public and private deposits, and the many facilities this kind of institution affords to society, belong to the States, and ought to be exclusively under their control. The objects of State policy are infinitely more numerous than those of the General Government, and deserve equally to be promoted.

It is said the States are at liberty, if they choose, to establish banks; this does not remove the objection; if the right is impaired, it is the same in principle as if it was denied. A branch bank of the United States will always have a predominant influence. They will have the benefit of a large capital; but the great source of influence results from its connexion with the mother bank, and a confederacy of branches co-extensive with the United States. They all move in concert; and, by combining their influence, would, at any time, be enabled to overwhelm and destroy the small State establishments. There can be no stronger evidence of the weakness and the dependence of the State banks upon that of the United States, than the alarm that some of them now feel at its expected dissolution. It is said, that no danger of this sort is to be apprehended; that those who have had the direction of the United States' Bank have conducted it properly, and

with liberality. This affords no guarantee that they will continue to do so. Bank directors have the same passions and prejudices that other men have; the same feelings of jealousy and rivalry exist in corporate bodies as with individuals; the same struggle for power and disposition to oppress. State rights require the guardianship of the constitution; they are not, I trust, to be left to the mercy of a bank directory.

It would, sir, be less objectionable, if the Bank of the United States diffused its benefits equally throughout the different States. But, instead of this equal and just distribution, it will be found to be confined and partial in its operations; its benefits will be principally confined to the sea ports; it can only be made to operate indirectly upon the agriculturist and manufacturer. The direction of this institution will be entirely in the hands of commercial men; all its power and influence will be lent to them. This, combined with the power their wealth naturally gives them, has heretofore, and will continue to give them a decided ascendancy in the councils of this nation. It is believed that this kind of influence has had its effect in producing our existing embarrassments with foreign nations. Sir, the slightest attention to our public acts will show that there has been a great predilection for commerce; that it has met with almost exclusive protection and support; whilst little or nothing has been done for the internal industry of the country; large sums of money have been expended for the promotion of commerce, whilst our infant manufactures have been suffered to pine and languish; the enterprise embarked in this way, never having experienced any kind of encouragement from the General Government. It is time to remove the causes that gave rise to this partial influence.

The power of the States is affected by this measure, in another important respect. By its means, individuals, who are mostly foreigners, hold large estates in stock, without being, in any way, subject to the control of the State Government, or paying any tax for its support. Is it just that such exclusive privileges should be conferred? Is it proper that these men, not the most meritorious, should be entirely exempt from the burthen of taxation, whilst the true citizen is bound to yield his personal and pecuniary aid?

Another formidable objection that presents itself, is the connexion of this institution with the Government ---a dangerous source of influence and power. When the People have to pay taxes for the support of Government, they feel and understand what is going on. If they should be burthened with high taxes, unless a good reason can be assigned for it, they will remove their agents, and appoint others, who will act upon a better system of economy. But give to the Government a bank with a large capital, and you afford a facility of borrowing, and a source of supplies, utterly incompatible with the genius of republican institutions. Loans may be had to enable the Government to pursue their projects; expensive establishments may be created, and kept up, in this way, that the people never would have tolerated, had they been directly called on for their contributions. The ease it would afford of getting money, would be the cause of repeated applications to this source; and we may readily perceive how a debt thus created will be constantly accumulating; upon this subject we have the light of experience to guide us. The English nation presents a sad example. It is true, the proposed capital is too small to create much clamor at present; but, renew this charter, and it will be augmented as convenience shall dictate. The capital of the Bank of England was small at its first establishment, but it increased gradually as the exigence of the Government required. Sir, whenever the Government shall have become largely indebted to this bank, it will have acquired an influence over our counsels, the idea of which is humiliating; an influence that would not only be degrading, but one that would endanger our liberties, by subjecting us to the control of a moneyed aristocracy. Permit me now, sir, to notice a few of the arguments that have been advanced in favor of renewal. It is said, that the practice of this Government is against the rule of construction we contend for: as an example, the act concerning light houses, beacons, buoys, and public piers, has been cited. This is referred to the power of regulating trade. This act is, in truth, only a mean to carry into execution a power; it is distinguishable at the first glance from the power to establish a bank. They only tend to

promote commerce; they are strictly, necessary, and properly confined to the object. They go no further than the end in view, not at all impairing the rights of individuals, or of the States; besides, there is nothing in them uncongenial with the nature of our Government.

It is further contended, that the law now attempted to be renewed has been sanctioned by the States, and acquiesced in by the People. That, although it might not originally have been necessary, it has now become so. I can see strong reasons why this act, granting a charter, should not be repealed, although unconstitutional. The system had been introduced; a pledge was given to the stockholders; they invested their funds upon the faith of its continuance for twenty years; it was a contract for that period; to have violated the public faith would not, perhaps, have been consistent with sound policy. There is a difference between repealing the law and suffering it to expire. The stockholders have not even the color of a claim upon us for the continuance of the charter after the expiration of the twenty years. The contract has been fulfilled and completed. They are, or should have been, ready to close their business. Sir, if this doctrine of acquiescence is correct, many other obnoxious laws that have been the cause of much heat and ferment throughout the nation, might, in the same way, be proven to be constitutional, and might, hereafter, be received, for the same reason. It is one of the first principles of a representative government, that a subsequent legislature have the power to change the measures of a preceding one; and it often is necessary they should do so. No State has ever sanctioned this law by a direct declaration to that effect. Their approbation has been inferred from their having passed laws to punish counterfeiters. Sir, the States cannot repeal an act of Congress; they could not prevent the circulation of the notes of this bank. It was, therefore, essential to pass such laws, in order to secure and protect their own citizens from fraud and imposition.

It seems clear to me, that an act of Congress, not originally constitutional, cannot be made so by any lapse of time. If, in 1791, it was unconstitutional, it must be so now. The constitution does not change with the times. A republican

administration should not be permitted to exercise a power that they would have denied to the other party. The love of power is natural; man is prone to abuse it. I confide much in those who are, at present, at the helm, but I will not trust them beyond the limits of the constitution. "With unremitting vigilance, with undaunted virtue, should a free people watch against the encroachments of power, and remove every pretext for its extension."

The evils to result from the dissolution of the bank, have, in my opinion, been greatly exaggerated: but, sir, this alarm, if real, impresses my mind differently from what it does that of some others. The deep interest excited; the feelings that have been awakened; the memorials constantly flowing in upon us; show the important bearing of this institution, and the great interest it has already created.

If we look forward to a period when this charter is to expire; if ever we intend to shake off this illegitimate offspring, now is the lucky moment; its embrace, though strong, is not yet deadly. Although some of its advocates threaten, and endeavor to coerce us into the measure, by the alarm they have excited, the stockholders yet approach in the respectful attitude of memorialists; we are yet at liberty to act freely; but, if this charter is renewed, depend upon it we shall not be able, hereafter, to stop its progress. Pretences will not be wanting to extend its limits, and augment its capital. The poison, already tasted, would soon reach the vitals of this Government; our efforts, hereafter, for relief, will be fruitless; they will only serve to irritate and in flame, until, at length, it will be found that we must tamely submit.

Mr. Findley. That Congress have a right to refuse the renewal of the charter of the bank, or to modify it as they think proper, is admitted on all sides. He himself wished the bill to be much changed from what it is at present. He would be even willing to join in rejecting it, for the sake of trying an experiment, if he was not convinced in his own mind, that the experiment would cost too much. We know how far and how well the present bank had answered the intention and the end for which it was instituted; but supposing another national

bank to be instituted, which he knew was the wish of some members who were opposed to the present one, very great both public and private distress must take place in the mean time, without a certainty of being better served in the end.

Whatever might be said on the ground of expediency, against renewing the charter, he had been much astonished to observe the bill so much opposed, as being contrary to the constitution. When the law for incorporating the bank passed, it was opposed in the House of Representatives by a minority ---about one third of the members voted against it. Though he was not then a member, yet he attended to the discussion, and he knew that those that led the opposition were equally opposed to all State banks, of which there were then but three in the United States, and none of these were instituted to promote the regular, permanent, and successful operation of the finances of the State, as some of them at least have since expressly been. He was sure that the Bank of North America, the first that had been incorporated, was, perhaps, from the circumstances of the times, considered rather as injurious than beneficial to the State: therefore, that a bank should be useful in conducting the revenues of the United States, was, at that time, in the opinion of many, at least doubtful, or a mere theory; but, no sooner was the experiment fully made, than all parties acquiesced in its constitutionality and usefulness. Its constitutionality has been recognised by all the branches of the General Government, through all the changes of parties and administrations: this could be made evident by numerous instances.

It is true, an honorable member from New York (Mr. Porter) has denied this, and alleged that the reason why it was acquiesced in or not repealed, was, because it was a contract which it was necessary on the part of the Government to fulfil. Mr. Findley said, that a contract contrary to the constitution was void in itself, especially where no consideration was given; that our courts of justice, who were judges both under the law and the constitution, would set such contracts aside, much more an act of incorporation, for which no valuable consideration had been paid, as the consideration only consisted of the services that were to be rendered, and which,

if contrary to the constitution, ought not to be accepted. So far, however, have the courts of justice been from setting this law aside, that both Federal and State courts have, under the authority of both the Federal and State laws, made decisions for its protection. Or, if it had been contrary to the constitution, Congress ought to have repealed the law by which it was granted; there was a precedent to that purpose in this country. The Bank of North America was incorporated by Congress at a period of alarming pecuniary distress; but knowing that it had no authority to give it effect, Congress recommended the incorporation of it to the respective States. Pennsylvania and Delaware only complied with the requisition; the charter gave an exclusive monopoly in perpetuity. Another company, in 1784, applied for a charter; the Bank of North America opposed their claim with success, in right of their charter. The succeeding Legislature considered the exclusive right and the perpetuity to have been granted in violation of the constitution, and therefore repealed that charter, and afterwards granted a limited charter to the company. Political parties have changed since the United States' Bank was incorporated; those that now prevail have been the majority about half the time; yet so far have they been from repealing the charter, that they have extended its powers, and availed themselves of its accommodations. It was a mistake to consider the authority to incorporate the bank to be a separate and distinct power, and therefore not granted to Congress. It was not even, as some members have called it, a constructive power, or power by implication. It was inseparably included in the powers expressly granted, as the means to accomplish the end; for it is in all cases admitted, that where an object or duty is enjoined, the means of accomplishing the object or of performing the duty are included. This is too plain to require proof or illustration.

The powers vested in Congress, or the duties enjoined, are, to lay and collect taxes, duties, imposts, &c. to pay the debts of the United States, &c.; and the object prescribed is the public good and general welfare of the United States; they have also the power to provide for raising and supporting an army and navy, and for borrowing money on the credit of the

United States. Surely, no member will say that the safe-keeping, the most cheap and certain manner of collecting the revenues, and the most expeditious and the least expensive manner of transmitting them to the destined places, and paying them to their appropriate uses, are not included in the before-mentioned powers; if they are not, the powers themselves are a nullity, because they cannot be executed. Custom house bonds are, by law, lodged in the banks for collection.

It is admitted that these powers included a choice of means and a discretion in the application of them, as they did in the various objects of taxation. Congress might have instituted numerous offices of deposit, and paid high salaries, and required sureties equivalent to the risk, and they might have employed public officers, sufficiently protected, to transmit the money to the various places where it was required, and to pay it to the appropriate uses. To this method, no doubt, nations had resorted before banks were introduced; but, surely, this method would be more unsafe, more uncertain, much more expensive, and attended with much more delay, than the agency of a bank, whose capital gave sufficient security, and whose paper is in great circulation and credit. Therefore, whatever might have been the different opinions, before the experiment was made, yet, having been successfully made, it is evident that it was the best means to accomplish the end.

The honorable gentleman from New York, however, has admitted that banks are necessary and proper for collecting, transmitting, and safe keeping of the revenue, but alleges that the State banks are sufficient for that purpose. This, Mr. Findley said, as he understood it, was giving up, in a great measure, the point. If the use of banks was necessary to carry the revenue powers into effect when this charter was given, and when there were not banks south of Philadelphia, and, it is believed, but two east of it, there not being State banks sufficient at the period when the charter in question was granted, in any degree adequate to the purpose, the Bank of the United States was a necessary means or instrument for executing the revenue powers vested in Congress, and

therefore not contrary to the constitution. If, at that time, it was not, then, it may be asked when it became so ?

The State banks are not, by their charters, in any degree responsible to Congress; they are not obliged to inform it of the amount of their capital, or their debt, or paper issued, as of their deposits. Surely, no member would agree to deposit the revenues of the United States with, or transmit them through, institutions, of the solidity of whose credit they were not well informed. He did not mean, however, to say, that it was not possible to select such a number of State banks as would be sufficiently safe for deposits, or that such a connexion of these banks might not be formed, as would make them responsible for the safe and speedy transmission of the revenue, and give the necessary information to Congress of the state of their affairs; yet, supposing this was all completed, this union of banks would be in so far a national bank, subject to the same objections, and to the following defects: The rates of all these banks would not pass through the whole of the United States, and the continuance of their charter would be at their discretion, and on the terms prescribed by the respective States. Indeed, it would occasion such a competition between the different States and the United States, in conducting their respective revenues, as might be inconvenient.

He did not mean to depreciate the State, banks; many of them are worthy of the highest confidence, as far as their power and operations extend; but, surely, it will not be said that all of them are so. The paper of some of them is well known to have depreciated; the paper of many others are current but to a small distance; they will not carry many of the members of this House from their homes to this place; the paper of none of them will pass through out the United States.

Mr. Findley said, there had been an unusual liberty taken on this question, of introducing party epithets. He did not really know what that had to do with the question. The parties connected with all banks, are the men that have money to vest in them for their own profit and at their own risk, and those who have credit, on which they receive accommodations from the bank; and there is a third party,

who have neither money nor credit, and who have no interest in banks further than the accommodations received from them some times enable their employers to pay them their wages the more promptly. You may call these parties federalists, republicans, aristocrats, or what you please; but those who have the most money, and are the greatest stockholders, will eventually have the direction of the banks, and those who have the greatest credit will obtain the largest accommodations. We know of some banks, instituted by one political party, which has come under the direction of another; they purchase the stock in market. We find, indeed, great opposition to the renewal of the charter of this bank, but not a single charge of misconduct, except the alleged appointment of two improper directors in a distant branch. Surely, the bill might be so amended as to give reasonable security against such appointments. He was but little acquainted with the branches, but he had heard no complaint against the direction of the mother bank, and was well assured that the republicans of Philadelphia had as liberal accommodations, and that as much or more of their paper was discounted there, than in any other bank; which, if the charter is not renewed, they must then redeem.

Congress is vested with the power of receiving money on loans, and, consequently, of providing the best method of procuring loans; and it is universally admitted that banks are the best sources from which to receive loans, without delay, without difficulty, and at moderate interest, and for no longer time than the loan is necessary. In the early stages of our Government, our revenue was small, and our debts and expenses great. In addition to these, we soon became involved in a tedious, very expensive Indian war. It continued five years. During this period, numerous loans were made from the bank, till more than three-fifths of the whole capital was loaned to the Government at common interest, payable at discretion. Another crisis of difficulty and expense arrived, viz. hostilities with France. Money was wanted; the bank could advance no more, it had already loaned too much. The Government was obliged to open books for a loan at eight per cent. interest, irredeemable for ten years; but few years had

passed before money could have been borrowed at a reduced interest for its discharge. Nay, but a few years had passed till it could have been discharged at the treasury, if it had been redeemable; much of it, as well as bank and other stock, was sold to purchasers in Britain and Holland.

It is believed by many, that a loan might be made to a large amount now, on better terms; but when he considered the great drain of specie from the country during the last year, the losses in Europe, and the unusually small amount of specie imported, or that was in the vaults of the different banks, he thought there was little encouragement to try the experiment. Such loans must be of a money that would pass throughout the United States for all payments.

Mr. Findley said, that, having entered more largely, on a former occasion, into this question, he did not intend to detain the House now. He had, as much as he could, avoided repeating what he had said formerly, or what others on the same side of the question had expressed. He had, therefore, avoided mentioning the public and private distress that must result from the immediate dissolution of this bank. Even admitting that the specie stock purchased by foreigners, believed to amount to \$7,000,000, should not be immediately removed from the country, yet it would be diverted from its accustomed uses; and, instead of giving relief as at present, might speculate upon our distresses. He believed that suddenly calling \$15,000,000 of current medium out of the usual circulation, could not avoid, in any country, being the cause of at least a great proportion of public and private distress. Therefore, he could not, by his vote, support the measure. It will have other inconveniences, which have not been mentioned. When the bank winds up its business and makes a transfer to trustees, it is not, by charter, obliged to call in its notes from a circulation that is widely extended throughout the United States. The holders, indeed, will have their remedy at law against the trust, but this may be a tedious and inconvenient remedy for many note holders.

It has been asserted by more than one member, that the institution of the bank was the foundation or source of the party spirit that has unhappily prevailed in this country. He

wished, before he sat down, to correct this mistake, passing what prevailed before the Government took place. It was the funding system, in the manner it was conducted, and the extent to which it was carried, and the consequent speculations, that was the source of that unhappy party spirit; but, especially, the assumptions of the State debts before they were liquidated or the amount known, and which, after having been once rejected, was carried by a very small majority; as a fund for this debt, the excise and other unpopular internal taxes became necessary. It is well known that about \$3,500,000 of this assumption is yet due to the United States from the States that were paid that much more than enough, and which no method has been, nor probably can be, found to recover. Unfortunately, almost every session, some measures are so conducted as to keep alive, if not promote that ruinous party spirit by which our national character is degraded, and our measures embarrassed. He questioned much if rejecting the bill, without, even attempting to amend it, is calculated to allay that unhappy party spirit.

Tuesday, January 22, 1811.

The motion for indefinite postponement under consideration---

Mr. McKim spoke in favor of it; Mr. Gold against it; Mr. Johnson for it; and Mr. Sheffey closed the debate for the day, in a speech against the motion.

Mr. McKim.¹² Mr. Speaker: The subject now under discussion involves an important constitutional principle, which presents, to my mind, an insuperable objection to the passage of the bill. It is not, however, my intention to enter on on discussion of the constitutional principle which has a bearing on the bill. That part of the subject has been ably and critically discussed by my honorable friend from New York, (Mr. Porter) and by other gentlemen, who have spoken on the same side of the question. On this part of the subject, sir, I will only observe, that a former Congress having decided the constitutional question for themselves, by passing the law to incorporate the bank; the tribunals of the nation having sanctioned it, as it respected themselves; or the several States having, without rebellion, but not without murmuring and complaint, acquiesced in such decision, cannot quiet my conscience, nor satisfy my mind on the subject. The question now recurs; I have to act on it, and I must decide it for myself.

I will now endeavor, Mr. Speaker, to submit to the House a few desultory observations, which have for their object to explain some of the practical operations of the banking business; to shew the probable effect of the dissolution of the bank charter; and to answer some objections which have been raised against its being suffered to expire.

It has been urged as a motive for the renewal of the charter, that the concerns of the bank have been conducted with impartiality to persons of different political opinions. In answer to this, I beg leave to read a part of a speech, said to be delivered on the floor of this House, and reported in one of our public papers; and also a letter from a gentleman in Baltimore, to whom the speech alluded. "It had been asserted (says this speech) during the last winter, that the branch bank

in Baltimore had accommodated only one particular class of political gentlemen. He (Mr. Stanley) had it from good authority, that a distinguished republican house in Baltimore, of which a member of the Senate was partner, had obtained a greater portion of discounts than any other merchants in that place."

The letter to which I alluded, is in the following words: "Dear Sir: Will you have the justice to state to the House of Representatives, as early as you have an opportunity, and in direct contradiction of the unfounded assertion contained in the enclosed, that the republican house in Baltimore, of which a member of the Senate is partner, has received but two discounts from the branch bank of Baltimore, to wit: one of nineteen hundred and sixteen dollars and fifty-five cents, and one of eighteen hundred dollars; the first on the 14th of April, and the second on the 14th of May, 1798; although the transactions of the House with that bank amount to nine hundred and thirty six thousand three hundred and twenty-two dollars fifty cents."

[Here Mr. Stanley explained. Perhaps it had not been his good fortune to be understood in the remarks which he presumed were alluded to by Mr. McKim's correspondent. It was his meaning, if not his words, that, although partiality had been charged in the distribution of the favors of the branch bank of Baltimore, he had been informed, from good authority, that, of its discounts, more than one half had been obtained by gentlemen of politics opposite to those of the bank; and that, in the purchase of bills of exchange, this bank had purchased a larger amount from the house alluded to (Smith and Buchanan) than from any other house in Baltimore.]

I am satisfied, said Mr. McKim, with the explanation. I have not introduced the speech and letter so much to support my argument, as to do justice to my friend; nor can I vouch for the correctness of the report. It has been stated that nineteen or twenty millions of dollars are due to this bank, whose charter is now about to expire; that, if the charter is not renewed, it will produce great distress, and general bankruptcy will ensue; that the bank, in winding up its concerns, can

receive nothing but specie, which will exhaust the resources of the other banks and individuals, and thereby produce a result the most disastrous to the mercantile interests of the nation. This statement is incorrect. By the returns from the treasury, it appears that no more than \$1,318,024 was due to the bank; and that the bank is indebted to the public and to individuals, in the sum of \$11,542,320; and all the offsets it had, against the heavy debt, are the above sum, due from different State banks, of \$1,318,024.

Mr. McKim illustrated this position by the following detailed statement of the account, which he read in his place:

The bank owes to Government for deposits, \$2,493,362

It owes to individuals for deposits, 3,891,680

It owes for its notes in circulation, 5,157,378

Total amount of its debts, 11,542,320

Deduct from the amount of debts due by the bank, its only offset,
1,318,024

Leaving a nett balance of debts due from the bank, of 10,240,296

This, sir, is the present situation of the expiring bank, by its own showing. Gentlemen have involved this subject in obscurity, by supposing the fifteen millions of dollars, held by the bank in discounted notes, as a debt due to the bank. Sir, there is not one cent of these notes due except a small sum that is in suit. If these notes were really due, it would materially change the state of the account. It would then possess the means of spreading terror, if it was disposed unnecessarily so to do; but we must take the account as it is; and if we would know how it stands, at any particular time, we must judge of it as we do of a race, by viewing both sides at the same point of time. Judging in this way, we find that this bank now owes a nett balance of upwards of ten millions of dollars.

Now, sir, I would ask. Can any gentleman believe that it will be in the power of a bank, thus heavily indebted, far beyond the extent of its present means, to spread such terror, and produce such distress, as has been stated, when it is deprived of the public and private deposits, of which it will be deprived, when it is known that the charter will not be renewed? It is true, that, while these funds, the debts it owes,

and a continuance of the public deposits, are suffered to remain in its possession, it may do much to create distress; while these funds are in its hands, it can employ the whole pecuniary resources of the nation to coerce other banks and individuals into its measures, if it were so disposed.

I wish it to be clearly understood, that I do not mean to say, or to insinuate, that this bank had unnecessarily used coercion, to create distress, or to obtain the object of its wish ---a renewal of its charter. But. while these funds remain in its hands, they produce this effect. They render it a measure of prudence and necessary precaution in other banks, not to issue their paper, to aid the customers of this bank, or others indebted to it, to retire their notes; and this operates powerfully on my mind, as a reason for urging a speedy decision of the question. I am of opinion, if this question is settled, let it be determined as it may, that all the difficulty and distress resulting from the probable dissolution of the charter, will soon be dissipated, and things resume their usual course. If the charter is not renewed, the expiring bank will lose its power of holding other banks in check, by the withdrawing of public and private deposits; which, being placed in other banks, will increase their means of giving aid to those who have paper to retire from the expiring bank. This bank having now no other than its own natural means, will no longer be an object of dread to other similar institutions; they may now freely lend their aid to relieve the distressed, and their increased means will be adequate to the object.

It has been suggested, that the capital of this bank, owned in Europe, will be remitted in specie, if the charter is suffered to expire; and that such a drain of specie would be severely felt by the banks, at this distressing time, in our commercial concerns. There is no necessity for remitting this capital in specie; and I do not believe one dollar would be so remitted, because it will not be the interest of the proprietors that it should. Exchange is low; I believe bills might be purchased at $7\frac{1}{2}$ a 10 per cent. below par; and if remitted in specie, the freight and insurance could not be less than 5 per cent. A remittance in specie would then be $12\frac{1}{2}$ a 15 per cent. less favorable than to remit in bills. Men are usually governed by

their interest, in transactions of this kind; and I do believe that the managers of this stock, if it is to be remitted to Europe, would remit it as other gentlemen do, in bills. But if it must be remitted in specie, it is probable there is some unknown cause, operating on remittances generally, that gives an advantage to remittances in specie; and if this be the case, the whole amount of our imports from Europe will probably be thus remitted. The amount of our imports from Europe, annually, is probably not less than eighty millions of dollars; and if specie must be shipped off, to pay for these imports, it will not add much to our distress, to let the bank capital go with it; but, I am of opinion, that one dollar will not be shipped to pay this stock.

It has been stated by my honorable colleague, (Mr. Key) whom I do not now see in his place, (and I regret that I do not, that I might be corrected if I misstated what he said) that fourteen millions of dollars would be thrown out of circulation, if the charter of this bank was suffered to expire; that the bank discounted fourteen millions of dollars; and therefore must have issued its notes to that amount, in payment for the discounted paper. This is incorrect; one half of the discounted paper, it might be fairly estimated, was of what is denominated accommodation notes; and for this portion of the discounted paper, no money goes out of the bank after the first renewal; but, on the contrary, money is brought into bank in this part of the business, to pay the interest, or discount, on these notes. I beg leave to explain to the House the nature of what is termed accommodation notes. They are notes for which no value has passed; they are given by the maker of the note, to accommodate the receiver of it, on an understanding between them, that, when due, it will be taken up by the person who received it; and discounts on this kind of paper are in the nature of a permanent loan, so long as the person accommodated requires, or as it may be convenient for the bank to continue it, the note being renewed every sixty days, and the interest paid thereon. But the proposition is equally incorrect, as it relates to the notes discounted, which were given on some actual transaction in business; notes are not issued by the bank, to the amount of the real paper it

discounts; money is constantly coming in for notes that fall due; and in the course of trade, it frequently happens that the money paid, in one week, on discounted notes, is, the next week, by various windings and changes, again in bank, to discount nearly a like amount.

The real diminution of the circulating medium, that will result from the dissolution of the charter, will be five millions of dollars. The report from the treasury, laid on our tables, states that the bank has five millions of dollars of its notes in circulation, and these of course will be paid off and destroyed, when the bank ceases to act; and, as it will then receive no more deposits, the means of other banks will be enlarged; whereby they may issue an increased amount of notes, perhaps nearly equal to the extent of the diminution that will result from the decease of the charter.

I will repeat, sir, what I before said. When the question of the charter is settled, the difficulties and distress that now exist will soon cease, and an accommodating disposition will take place; the expiring bank will then relinquish its pretensions to receive nothing but specie in payment; it will see the necessity of receiving payment in the paper of other banks that are in credit; it will receive payment in such bills as other banks and individuals receive freely. And why will it do this, when it has a right to insist on specie ? Because it will be urged to do so, from interest and necessity. It has a large debt, that will be shortly falling due from its customers, and how will they be able to pay, if the bank shall draw all the specie into its vaults, and keep other banks in check, so that they can afford no aid to its customers, to retire their notes when they fall due. The specie cannot be wanted by the expiring bank. Every object of winding up, remitting, and paying its capital, can be managed to equal advantage without it. And will this bank, without a motive, and in opposition to its own interest, endeavor to produce distress, by thus unnecessarily drawing the specie into its vaults? Certainly it will not. But, if it should act so unadvisedly, who is to be the greatest sufferer? Who has a greater interest than itself, in facilitating the payment of debts? None have a greater stake at hazard than this bank; and I venture to say, that none will be more disposed to promote

the general convenience and prosperity, than it will be. I have no fears of this [spectre of misery and distress, that has been artfully conjured up](#), to alarm us into a renewal of the charter.

My honorable colleague (Mr. Key) has made an eloquent display of the benefits of banking establishments, in our agricultural improvements, our manufactures, and ship building; and if this bank was put down, the effects would be severely felt, in the reduced price of produce, and in our improvements generally.

I accord most heartily with the honorable gentleman, as to the benefit of banks, to a reasonable extent. No one is more perfectly convinced of the benefits resulting from them than myself; but I deny that such injurious effects would be produced, by suffering this charter to expire. Is there no other bank but this one, founded on foreign capital and administered, more or less, under foreign influence, that can produce and perpetuate these benefits? Surely there are others as capable, and as much to be relied on, as this. The capital of this bank forms but a small portion of the aggregate bank capital of the nation; and if its charter should expire, the benefits mentioned will not be lost. No specie will be destroyed, or sent out of the country, by its dissolution. Specie is the basis of bank capital; and if we have specie to meet them, we can easily make bank notes enough, without the aid of this bank. The bank notes that will be thrown out of circulation, are all that will be lost by the dissolution of the charter; and if we have specie, we can soon supply their place; there is no scarcity of paper among us.

The charter of this bank was granted for a limited time; the privileges and immunities it granted were great. The interest it yielded on its capital and its credit, are liberal; and the increased value the charter gave to its stock was great. This stock, originally only ten millions of dollars, soon became worth fourteen millions under the charter. The company have enjoyed these benefits in the fullest extent, without molestation; their chartered rights have not been infringed or violated; and the charter is now about to expire by its own limitation. And this valuable inheritance of benefits, about to descend, with the death of the charter, to the People of the

United States, will become their joint property. About [seven tenths of the present stockholders are foreigners](#); and shall we, the guardians of the rights and interests of the American People, perpetuate these benefits to foreigners, by a renewal of the charter to them, in preference to those whose interests we have been chosen to protect? Persons unconnected with the public business, might, perhaps, wink at such an act; but if we, in our representative capacity, should do it, will it not be to record our infamy ?

Under these impressions, Mr. Speaker, I am prepared to give my vote for an indefinite postponement of the bill. But, if the section stricken out in Committee of the Whole shall be reinstated, and the bill shall come to a final vote, I must record my name against its passage.

[Mr. GOLD.](#) Mr. Speaker: Although this question has long engrossed the consideration of the House, I must ask the indulgence of the House to the observations I may offer; I will not trespass on your patience.

The question of expediency, together with various extrinsic topics, I pass by unnoticed; on these, let the judgment, and not the feelings, of the House, which have been so much addressed through *ex parte* statements and suggestions, determine.

On the great constitutional question, involved by the bill on your table, it is the fruit of my best reflections, it is my deep conviction, that the agency of a bank is necessary to the administration of the finances of this country; that it is eminently necessary to the great exigencies of war. This is the test; on this pivot rests the question. In coming to the conclusion I have, sir, I disclaim the doctrine of implication of powers; of constructive powers; now rendered so odious and so unjustly imputed to those who maintain the constitutionality of this bank. I ask only the application of a plain simple rule, which is as old as first principles: as extended in its operation as the empire of law: to be found in all codes, applicable to all instruments, as well to conventions between States as to the contracts of individuals.

It is, that, with the end is given, inseparably given, the means; that, with the express powers given to this Government is also given the means necessary to carry the Government into successful operation; not merely to move the wheels, but to give an effectual impulse, necessary to the exigencies of the country. When gentlemen survey the extended Department of the Treasury, the wide theatre of the public expenditure, commensurate with the United States; the daily transmission of moneys (to satisfy the public demand) in every direction, to the furthest limits of the Union; to the frontiers; to your garrisons; to places with which there is no commerce, on which bills of exchange cannot be obtained; can they avoid seeing the treasury involved in the utmost embarrassment by withdrawing the aid of a banking institution? Such embarrassment to my mind is inevitable.

But, sir, if doubts could exist as applicable to a state of peace, in the great and trying emergencies of war, there is not, I did hope, room for diversity of opinion; the necessity of the institution in my conception is eminent, is indispensable. *Money is the sinews of war*; for want of it, to satisfy a needy discontented army, the most important operations of a campaign have been arrested, and the most disastrous results produced.

Our own country, sir; the patriotic army of the Revolution ---and one more patriotic, I fear, we shall never see---furnished one, if not more, instances of discontent and actual mutiny for want of pay (for want of that which this institution could so promptly furnish) which was not appeased without resort to military execution.

However pacific in its policy, let no nation promise itself continued exemption from war; history gives no assurances of this kind; nowise Government, in its policy and institutions, ever lost sight of a state of war. In case of internal dissensions; in public convulsions, the prompt aid of a bank may be equally necessary. It is the observation of a distinguished writer who had well considered the events of the Revolution, that the independence of this country was in no small degree indebted to the Bank of North America.^{\$}

But it is said, that the best resort of Government is to the purse of individuals; that this source will be found abundant. It is, Mr. Speaker, on public emergencies; in times of public convulsion; under the severe pressure of war, when ready supplies of money become indispensable to Government; and it is at such a period that alarms spread and distrust seizes on the community; it is then that the moneyed man withdraws himself, places his cash in a strong box, and not unfrequently commits it to the earth, beyond the reach of Government. We have no power of drawing the Jew's teeth; no resource in a forced loan.

In the course of debate on this bill, it is not a little amusing to observe the desperate efforts, the contradictions and inconsistencies, which gentlemen, in their zeal, fall into. At one moment it is most strenuously insisted that no thing short of an express provision in the constitution to create corporations can warrant the establishment of a bank; the next moment it is admitted, and strange indeed had it been denied, that, if a bank be a necessary mean for the execution of the delegated powers of the Government, then must it be constitutional.

The most fruitful source of error, Mr. Speaker, is in the palpable misinterpretation of the term "necessary," in the constitution; it has been reiterated, again and again, under this head of the argument, that a mean, to be necessary, must be absolutely, indispensably so, without which the operations of the Government would be arrested. Now, sir, all this is contrary to the sense in which that adjective is used by the most approved writers, and in direct violation of the elementary principles of our language. If gentlemen will take the trouble, and I invite them to do it, to recur to the best writers and philologists, they will find the term used in a sense implying only what is needful or requisite, and not what is extremely so or indispensable; and why, sir, should it be extended beyond the above limits? Is it not an adjective of comparison? for the argument has carried us back to our schools. Is it not in every day's use, and correctly so, that one thing is necessary, another more so, and a third indispensably so? Have we not seen here, upon this floor, a member rise and call for the order of the day on a bill as necessary to be

acted on, another member call for one more necessary, and a third for one absolutely or indispensably necessary? And yet, sir, gentlemen continue to urge upon us, that necessary, in its positive, uncomparad state, imports the superlative, and means indispensable. Such arguments, sir, not only prostrate the bank, but subvert the very foundation of language. Again, sir, it is said, that no mean is given by the constitution, if the operations of Government can possibly be carried on without it. Is this dishonor to be done, sir, to the memories of those wise men who framed our excellent constitution? Was it the height of their ambition, the fruit of all their labors, to give the country a limping, hailing Government, to move with a snail's pace; to give to the wheels an impulse the least possible competent to move them? Upon this argument, sir, the Government itself ought not to have been established at all, as, without it, the country might have subsisted; we might probably have defended our territory and retained our liberties, at least, for a considerable period; we might have moved up and down, and consumed the acorns of our forests. A higher ambition moved the worthies who laid the foundations of this goodly fabric of Government; and I will not hesitate to honor them so much as to say, that they intended to give to the Union a Government for attaining the highest degree of political prosperity, which the condition of the States and the nature of a federative compact is susceptible of. Such, sir, in my apprehension, was the object of the constitution; and I beg leave to add, that this object may be carried into effect, without touching the rights, the interests, or happiness of those States. Nay, sir, the best interests of each and every State in the Union imperiously demands of Congress, in despite of all the covert movements of State banks and State politicians, independently, to carry into effect the bill on your table. Let us not, sir, shut our eyes to the quarter from whence danger threatens to the interests and ambition of States, who, assuming a control or influence over the Representatives of the People, would, in effect, dictate to you what course you are to pursue. Here, sir, at this period, lies the danger to the constitution. We are arrived at a crisis, when it is considered almost an act of hardihood to

vote, on this question, in opposition to the wishes of the State to which a member may belong, signified by a resolution of the Legislature. If this influence, sir, is to prevail over the councils of the Union, then, indeed, are we degraded, our sovereignty lost, and all the weaknesses and maladies of the old confederation returned again upon this body politic. I repeat, sir, [if this bank shall fall, it will owe its fate to the baneful influence of individual States, governed by their own banking interests](#), over the counsels of the Union.

The argument, sir, in support of the constitutionality of a banking institution, as a mean necessary to execute the Government, is greatly strengthened by the consideration, that the jurisdiction of the Government over the specified subjects of its cognizance is sovereign.

In the division of power, certain subjects of legislation remain with the individual States for their sole and sovereign jurisdiction: other specific subjects are, by the constitution, committed to the exclusive cognizance of the Government of the Union; all Legislative power over those subjects is not only given to Congress, but expressly denied to the States. With these plain landmarks before him, I was not a little surprised to hear my honorable colleague (Mr. Porter,) in a speech of so much method and ingenuity, contend, that the Government of the Union was not sovereign in any thing; that sovereignty was to be found alone with the People. To the People, sir, we always bow with respect; it is among first principles, that all power flows from the People, and is to be exercised for their benefit and welfare; the People are the legitimate source of all power, and it is from them the constitution is derived; but, sir, the moment the constitution is formed, and the government established, the original [sovereign power of the People](#) is parted with; it is [transferred to the Government](#), and all interference with its exercise is lost, except through the medium of elections. Need I refer to a host of writers on civil society and Government for all this? The result is inevitable, that the power of this Government over the objects specifically and exclusively committed to its jurisdiction, is full, entire, and sovereign. The principle of my colleague would give us a [government of men, not of laws](#), the very definition of

despotism. This view, sir, repels the strict, the narrow, meagre rules of interpretation which have been applied on this occasion. Another position of my colleague is equally unfounded. He insists that the Governments of the Union and the respective States have a mixed or combined jurisdiction over the same subject matter; and hence a new restriction is created on the power of Congress. What, sir, is the power given to Congress, and the means to execute it reserved to the States? for such is the application and consequence of the argument.

The very face of this proposition involves contradiction and inconsistency; it would make the constitution a *felo de se*, and annihilate the Government. We are carried back again into Egypt; to the old doctrine of dependence and requisition of the confederation upon the States. Such, sir, is the extent, such the desperate efforts of argument to cut down the powers of this Government and prostrate this institution.

I cannot, sir, pass over another argument against the bill, without notice. It is said that the banks of the States may be resorted to in the administration of the finances. Here, sir, by this argument, the whole question of constitutionality is given up, for the very necessity of the resort to State banks maintains the agency of a bank as necessary in administering the Government; it is on this pivot, necessity, that the whole question turns. In steering clear of Scylla the argument is lost in Charybdis. This necessity of bank agency is so indispensable to the Government, that gentlemen look with fear and trembling upon the intermission of a day between the expiration of the charter of the present bank and the new and gladdening reign of State banks. It has been stated on the floor of the House, that arrangements are already making with State banks for the accommodation of the Government. Preparations are in forwardness for celebrating the nuptials of these State-damsels, who, with little modesty, attend in the ante-chamber, eager to rush into the arms of patronage in the treasury. Do ye not discern the signs of the times? Are the policy, the co-operation, and active movements, of the State banks, not seen? While the United States' Bank is going down, do you not observe the wreckers hovering on the coast?

But, sir, this great question of constitutionality does not depend on the occasional existence or non-existence of banks, in the States, but on the intrinsic power given by the constitution, without regard to the extrinsic, contingent, and uncertain co-operation of State Legislatures.

What the future policy of the respective States would be; whether State banks would be established, able and willing to aid this Government, and safe depositories for the revenue, could not be foreseen by the framers of the constitution. Such an argument, resting on such contingencies, would at one period make a thing constitutional, which at another would be unconstitutional.

To all those who are averse to a multiplication of banks and bank-stock, permit me to observe, that the States stand ready to fill up, by new banks, the vacuum or space left on the expiration of the United States' Bank, as rapidly as the motion of fluids under the principles of hydraulics; nay, sir, some have already anticipated the event by a litter of banks, and hence, sir, we have witnessed the struggle of a parent's affection to protect its offspring.

It only remains, sir, for me to call the attention of the House to the past.

It is now twenty years that this bank has been in operation, in constant intercourse and correspondence with the Government under all the revolutions of parties; during which period we have the concurring testimony of all the States in the Union in support of its legitimacy, deducible from their acquiescence and satisfaction; for, sir, after the agitation excited by its creation had subsided, I have not been able to find, among all the projects for amending the constitution, that a single State has touched the power that created this bank. No, sir, this *viper in our bosom* (to use the impassioned language of gentlemen in opposition to this bill) has lain harmless. Harmless, did I say? Like a good genius, it has administered to our wants, and promoted our welfare.

Can the candid mind resist the conclusion, that the People are with the bank? Shall I remind you, sir, that this institution received its existence from the hands of the greatest and best of men, and under the presidency and with the entire

approbation of Washington; that the constitutional question was decided at a period auspicious to fair inquiry; at a period when party spirit was much less virulent and destructive; that some of the most distinguished supporters of the present administration concurred in its establishment ? Shall this question of constitutionality^{\$} never be at rest ?

\$ The question remains the same: The Framers of the Constitution did not frame into the Constitution a Federal Bank. They framed into the Constitution a Navy, but not a Bank ---even though five years later, when many of those Framers, now in the Senate, in the House, in the Cabinet, proposed and promoted the idea of chartering a Federal Bank, stated that a Federal Bank was/is just as necessary for the defense of the nation and to the existence of the Government as a Navy.

Were all those Framers negligent at the Convention ?

No, they were not negligent or absent-minded. They knew full well that if they had framed a Federal Bank into the Constitution, not one member State would have ratified that constitution. This suggests planning and conning on the part of the Framers and the promoters of the independent central-bank concept. They knew they had to wait until the Union was formed and established, and the first Congress assembled. In the first Congress they interpreted that by implication has always been in the Constitution that which was not explicitly written into it.

MR. JOHNSON.¹³--- Mr. Speaker: I had determined, until yesterday, to be silent on this occasion, and I extremely regret the necessity which has compelled me to trespass upon the exhausted patience of the House upon an almost exhausted subject. I am opposed to the renewal of the charter of the Bank of the United States from the strongest sense of duty which can be felt by the representative of a free People; believe it palpably unconstitutional to renew the charter, and, **if it were constitutional, it is inexpedient and improper.**

It is absolutely necessary that the House and this nation should understand the real question before us -- for arguments have been advanced upon premises which do not exist, and remarks predicated upon a case which is not embraced by the bill. This makes it my duty to call attention to the real question, that we may not dwell longer upon supposed cases. This is not a struggle, on our part, to repeal any act of incorporation, or to deprive any citizen of any vested rights claimed either by nature or by any political act; but an exertion in favor of equal laws and equal justice to all the people of the United States, to prevent monopolies from being given to a moneyed aristocracy, unknown to the constitution, and dangerous to the liberties of the people, and subversive of the State sovereignties.

Twenty years ago, Congress, in express violation of the constitution, incorporated a bank, called the Bank of the United States ---to continue twenty years, which will expire the 3d of March. It was granted by those principally who have assumed the name of Federalists, and who advocated the incorporation of the bank as constitutional, upon the odious doctrine of implied powers, and which was opposed by those who have since supported the character of republicans. This very measure was the first that laid the foundation for the two great political parties who have, since that period, agitated and divided this country.

The charter granted in 1791 will expire the third of March, and the stockholders, and those under their influence, have petitioned Congress to renew the charter for the term of

13 Richard Mentor Johnson (1780–1850), Kentucky; future vice-president in Martin Van Buren's cabinet.

twenty years more. Will we encourage this moneyed aristocracy, and continue this privileged order in the bosom of our country twenty years longer ? They have had the exclusive advantage of accumulating wealth and money for twenty years, and they are not satisfied. They wish a renewal of their charter for twenty years to come. Thus, sir, the present Congress have before them the same question which was determined in 1791, viz. to incorporate the stock holders of the United States' Bank twenty years from the 3d of next March. We are absolved from all obligations on this subject, but those of duty to the people; the question stands on its original merits and demerits; for the lapse of twenty years cannot sanctify a breach in the constitution, nor the acquiescence of the people make that expedient and proper, which is hostile to liberty, equality, and justice. Thus absolved from all obligations to promote this institution, from such considerations as have been urged, I am to consult the good of the People.

First, to incorporate the stockholders of this bank, and thereby continue in existence a moneyed aristocracy, and a privileged order of men, is a violation of the Constitution of the United States; that Constitution of union which binds the States together, and which we are individually bound to support by a solemn appeal to heaven.

It cannot be unpleasant to trace back to its source the union of the States. It brings to the patriot's mind the events of the American Revolution. It was in this glorious Revolution that the union of the States had its origin; at a time when we were distracted by domestic faction, and threatened with a foreign power, when, in fact we were invaded by a British army, and our political existence was threatened. Thus, while General Washington was at the head of our forces in the North, the sages in Congress were planning articles of confederation as early as June, 1776. Before the declaration of independence, a committee, composed of a member from each State, was appointed, to draw up articles of confederation by which the States should be bound to each other.

These Articles of Confederation were finally adopted by all the States in 1781, until which time Congress was the type of union, and the rallying point for the States. So great was the influence of these men who conducted us safe through the Revolution. This summary will give us the objects of the union of the States. It was not for the purpose of interfering with State rights, for the purpose of regulating the laws of credence, and the laws of descents, of creating county court-houses and jails, opening State and county roads; this would have been impossible; it would have been an assumption of power destructive to every principle of independence. It was, on the other hand, for the great and mighty objects of common security from foreign enemies and domestic treason and insurrection, that the union was formed.

The objects of the Union are confined to those great matters of the confederacy which could not be effected by a single State. We should, therefore, confine ourselves to these objects of the confederacy, that we may not weaken the bonds of union by a usurpation of power not given to us by the confederation; a union sacred in its origin, cemented by the sufferings of the States, strengthened by habit and affection, and sacred in its objects of common security against external danger and internal commotion.

The articles of confederation being the first written bond of union, let us examine the system and point out its defects, that we may more easily see why the Articles of Confederation were abandoned for the present Federal Constitution. The articles of confederation gave to the old Congress the powers enumerated in the present constitution. The objects of both instruments were the same, the powers principally the same, but different in the execution of those powers. The powers of confederation were federal in extent, and federal in their operation.

The resolves of Congress, therefore, under the articles of confederation, had no other force than recommendations to the different States. If men were wanting, the States were required to furnish their quotas. If Congress wanted money for the great objects of union, they could lay and collect no tax; they could only recommend to the States severally to

furnish the requisition. But Congress had no power to force the States to a compliance. And the States could, as many of them did, refuse to furnish the requisition of men and money demanded by Congress; thus the powers of the United States were federal in extent and federal in their operation. The old Congress had no judiciary, because that would have been unnecessary, as their resolves could not be enforced upon the States in their sovereign capacity, or upon the property or persons of individuals. In this state of things, when commerce languished, when, under British influence, we were engaged in a bloody Indian war; and our ports and frontiers in British possession, and the States refusing to furnish men and money, and comply in all things with the resolves of Congress, although under constitutional obligation to do so; it was agreed, by all, that the articles of confederation wanted revision and amendment; the States sent their deputies for the purpose of forming a more perfect instrument of union between the States. This was a great and a delicate trust.

Thus the present Constitution originated from the defects of the confederation -- embracing the same great objects of common security; and the power of both instruments are limited and federal. In fact, they are both a grant of specified powers, and powers not granted to Congress are reserved to the States or to the People. We discover the same objects and powers in the two instruments of union; differing in their operation upon the States and the People. Congress has the power to lay and collect taxes, and to operate upon the person and the property of every individual in the United States, and, with that view, federal, judicial, and executive branches were established, by the present Constitution, to carry the laws into effect, and to appoint officers to collect the revenue. Congress has a right to raise an army from the body of the people, and to force a draught if necessary, whereas the old Congress, under the confederation, had the same right to require men and money for the objects of the Confederacy; but these requisitions operated only as recommendations to the States. From this statement we plainly discover the great and only radical difference between the Confederation and the present Constitution. The powers now exercised by

Congress can be enforced upon the persons and property of the People. This operation, and carrying into effect the powers of Congress, is the national and consolidating principle of the Constitution.

Although experience had proven the want of power in Congress to carry into effect the legitimate objects of the confederation, this national or consolidating principle in the Federal Constitution, was a subject of alarm and solicitude to the friends of liberty. This principle was the fruitful source of the most obstinate and rational objections to the adoption of the Federal Constitution; and it was with vast difficulty that the States adopted it. In fact, it was adopted under a conviction and promise that amendments would be made, which would leave nothing to doubt or implication, and important amendments were engrafted accordingly into the constitution, all tending to demonstrate that we were to assume no power by implication, but confine ourselves to the letter of the Constitution.

To prove that the constitution should be thus construed, I need only advert to the 8th section of the 1st article, in which the powers granted to Congress are specifically enumerated, to lay and collect taxes, to borrow money, to regulate commerce, to establish a uniform rule of naturalization, to coin money, to constitute courts of justice, declare war, raise armies, to call forth the militia, &c. And to the 10th section of the same article, where certain powers are prohibited to the States, which had been previously vested in the Congress of the United States, viz: no State shall enter into any treaty, alliance, or confederation, nor grant letters of marque and reprisal, coin money, emit bills of credit, or grant any title of nobility, nor lay imposts or duties on imports or exports, or lay duties on tonnage, keep troops or ships of war in time of peace, or engage in war unless actually invaded, or in such danger as will not admit of delay; &c. ---and the 9th amendment in these words: "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people;" which amendments refer to the prohibitions to be found in the 9th section of the 1st article, and others of the same kind, viz:

"The writ of *habeas corpus* shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it. No bill of attainder or ex post facto law to be passed. No tax or duty shall be laid on articles exported from any State. No money shall be drawn from the public Treasury except in cases of appropriation by law. No title of nobility shall be granted," &c.

And, more especially, the 10th amendment, viz: "The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

The parts of the constitution recited prove the position taken, that the Constitution is a grant of specified powers; that we can exercise no power not expressly delegated to us by this instrument; that our orbit is circumscribed by the grants of the Constitution, and we should be careful not to usurp authority not given to us. The exercise of authority not delegated, but reserved to the States, or to the people, is the very essence of consolidation, which, if enforced by the United States, would lead to monarchy or a despotism. If not enforced, it would convulse the whole nation, and we should see the people quitting their daily avocations; the farmer his plough, the mechanic his shop, to remonstrate against a tyrannical exercise of power. This we have seen on former occasions, not less memorable than this, arising from the same doctrine of implication, and arising from the acts of the very same set of men.

The harmony of the States should not be disturbed. It should not be agitated by the breath of discontent. Its value is more precious than gold or silver. The spirit of union should be cherished by us all in words and in actions. Nothing will produce more happy effects than keeping in the path of our rightful powers; otherwise you generate the most angry passions of the people; you start up the most malignant invectives -- order will be disturbed, and tranquility will be interrupted. To produce these unfortunate effects, nothing can contribute more than to disregard the enumerated powers in the constitution, and exercise tyrannical powers by implication, or under some general phrases, such as the

"general welfare;" expressions which contain no grant of power, but limited and explained by enumerated authorities; by which construction the power of Congress would be arbitrary and unlimited, as Congress would take upon themselves to judge what measures would promote this general welfare.

I wish, on this occasion, to do justice to the people of Kentucky, by asserting their inviolable attachment to the Union, more especially since, in this House, its sacredness has been profaned in a manner not to be forgotten. If the people of the West, and beyond the mountains, have any political idol, it is the union of the States. As the Bible and New Testament are dear to every Christian and true believer, as the basis of his happiness here, and the foundation of his future hopes; so the union of the States, in a political point of view, is considered, by the people, as the surest pledge for the blessing of liberty, and the security we enjoy, and the ark of our future hopes and safety. Their union is never profaned by conversations or speculations about disunion. You never hear disunion mentioned in private circles, much less in public bodies. A professor of religion to deny the existence of an over-ruling Providence, would not be more disgraced, in the estimation of the real Christian, than a statesman would be disgraced, politically, by even doubting the advantages of the union of the States. The word disunion, as applied to the States, would produce a heart-rending pang in the bosom of a Western patriot, and, I hope it would, throughout the seventeen united States and their territories.

The people are republican, and they abhor all measures of a monarchical tendency. They know the United States have been governed alternately by the two great political parties in this country. They have a regard for and a confidence in the Republican party ---this regard is not confined to the Western States, but extended to every part of the United States. They believe that truth and equal justice will prevail, where the opportunity is equal, and where the people do exercise the powers of sovereignty. The people represent, and in fact the whole of the States have confidence in every part of the United States. As a people they cherish

and harbor no jealousy about large and small States, of commercial monopolies, &c. Nor are they thus attached to the Union from selfish and interested motives -- no, sir, their attachment to the Union arises from a noble and generous affection, a magnanimous and disinterested display of patriotism, and love of independence. We have given many proofs of this. At a time when this people were agitated and alarmed at the prospect of having some of their most essential rights interrupted, and when they declared their determination to support those rights, the gold and silver of Spain, in the hands of Spanish emissaries, could not alienate the affections of this people, with all the influence of arch intriguers; and the treason of Aaron Burr had as little effect upon the minds of this virtuous and happy people. Any other attempt would be as vain, however well matured. I feel the consolation which arises from a knowledge that I represent in part such a people, whose affections cannot be estranged from the great American family by promises of future greatness, the hopes of golden harvests, or the expectations of governing provinces with the silver mines of Mexico.

With these sentiments, I am now to examine for the particular parts of the Constitution and the arguments which have been advanced to justify this measure. It is not contended by any, that the power of incorporation is an express power given by the Constitution to the Congress of the United States, beyond this ten miles, over which Congress has exclusive legislation. If then this power is not expressly given, I might here stop and deny the right to exercise it. So far from finding any express clause in the Constitution, giving this power, the word corporation or bank cannot be found in any part of this instrument of our Union.

We have seen the exercise of great abilities, and we have been entertained with great research by those who advocate the renewal of this charter; but, unfortunately, these gentlemen cannot agree among themselves. Is this not the strongest proof that the power to incorporate this bank is not given by the Constitution, and does it not demonstrate the danger of constructive powers? One has contended that this power was inclusive in some of the specified powers; another

has contended that this power is given by implication; and a third contends, that it is an incidental power given to carry some specified power into operation. This is not all; the advocates cannot agree upon the specified power in the Constitution, out of which this power or means arises. One has contended that the power to lay and collect taxes gives this power, as a means to execute the specified power; and to support this position, it has been contended that this national bank is necessary and proper, as a means to lay and collect taxes, duties, &c. To strengthen this construction, that part of the 8th section of the first article, which says that "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers," &c., has been resorted to; another has said that this instrumental power grows out of the express power to borrow money -- and a third, that this power was incident to the power to regulate commerce, and in fact these three great objects are embraced by the preamble of the bill which passed in 1791, [which incorporated this moneyed aristocracy and erected a privileged order of men.](#)

With respect to the declaration in the Constitution, that Congress may make all laws necessary and proper to carry the express powers into effect, I should state that the framers of the Constitution intended by this declaration to prevent the doctrine of implication, and to leave nothing to doubt. It was introduced through abundant caution against the strides of usurpation, and it should be the last clause to which he should advert, upon which to build the doctrine of unlimited means, to carry the express powers of the Constitution into effect. If our means are unlimited, our powers need not be defined, because one, as much as the other, is a destruction of our freedom and independence. I shall contend that the means by which we are to carry into effect any express authority should be adapted to the end in view; that it should not embrace other objects, not contemplated by the Constitution, although it may be made instrumental in carrying into effect a specified authority. Under this cloak we might conceal our usurpation of power.

I will ask if this National Bank is necessary and proper, as a means to carry into effect the power to lay and collect taxes, duties on imports &c., to borrow money, or to regulate commerce. If necessary and proper, is this bank confined to any one of these objects, exclusively, or to all collectively; or does it embrace a vast variety of other objects, which are the primary ones, in fact, of this institution, and only embracing these powers in the Constitution, incidentally and as secondary considerations ?

Sir, it will be difficult to convince the people that it is necessary, in the language of the Constitution, to create a moneyed aristocracy and a privileged order of men, extending its branches, its influence, and its strength, into the interior of every State, to collect taxes, to borrow money, or to regulate commerce. The primary object of this incorporation was to promote usurpation of power, to support the dangerous doctrine of implication, and to amass wealth from the labor of the people, and not for the exclusive object of carrying into effect any express authority in the Constitution. Thus, it is evident that this moneyed aristocracy, embracing such a vast variety of objects, no ways connected with the execution of any specific grant of power, that it departs from the letter and meaning of that part of the constitution which gives the power to carry into effect the specified powers of the constitution.

But now, let us inquire what is the necessary means to lay and collect taxes. If a bank was not intended, I will take duties upon imports, as in that way we collect our revenue. First, a law must pass designating the articles upon which a duty shall be laid, the amount of that duty, and the manner in which it shall be paid, either upon the delivery of the goods, or upon a credit, by giving bond with security, and last, to appoint collectors of the revenue and other officers to collect and receive this revenue for the United States, with authority to bring suit upon failure of payment. This is a necessary exercise of the power to lay and collect taxes, &c. And where is the statesman who has denied the power as unconstitutional ? Here these means are confined to the object in view, the collection of revenue; and certainly, the United States have power sufficient for all the objects of the

confederacy, as, in the exercise of all the specific grants of authority, Congress may operate upon the person and property of the individuals of the States to enforce that authority.

It is no argument with me, that we are in prosperity and health, and such an institution will not be dangerous. No, sir, establish a precedent in the days of prosperity, and it will come upon you in the hour of adversity. This same doctrine of our being unlimited in our means of carrying into effect the grant of powers in the Constitution, has already endangered the liberty of this nation. If the doctrine contended for on this occasion be correct and carried into full force, Congress would be as omnipotent as the parliament of Great Britain, the Constitution would no longer restrain us and [the independence of this nation would depend upon the caprice of Congress](#); our Constitution would be like the boasted constitution of Englishmen; and what is that constitution ?

Sir, it is not lettered or defined like ours. It may be changed by Parliament, as the Crown party, or the people, shall prevail.

1st. The great charter of liberty, obtained from King John, violently, and in duress, declaring what should be considered the fundamental laws of England.

2d. A statute in confirmation of the great charter, making provisions to read the same to the people in their churches and public places, semi-annually.

3d. A number of statutes, called the conforming statutes, from the reign of Edward I. to Henry IV.

4th. The Petition of Rights, a declaration by parliament of the liberties of Englishmen, extorted from Charles the first, before the rupture with his parliament.

5th. The habeas corpus act, in the reign of Charles II.

6th. The Bill of Rights, and declaration of lords and commons of England, in 1688.

7th. The Act of Settlement at the commencement of the 18th century, endeavoring to secure the English subject in his personal liberty, security, and property. These, and the like parliamentary declarations and statutory provisions, constitute

the constitution of England, which the same parliament has a right to alter or abolish. I never wish to see Congress invested with a power to change the Constitution, sanctioned by the people in their highest sovereign capacity.

The Constitution has vested us with power enough, and if we want more, amend the Constitution in a constitutional way, and not tyrannically exercise power never delegated to this body. The ground on which we stand is delicate, and the duty we owe the people should teach us caution, more especially when we see men in power too apt to grasp at more, and exercise it oppressively. We should never forget that all power flows from the people; they are sovereign --I hope they will ever remain sovereign in this country. Our safety is with them. They are unambitious, they are virtuous, and have no temptation to overturn those liberties which they themselves enjoy.

But this measure is a violation of the Constitution in another respect, by interfering with State rights. This corporation can send a branch bank to any part of the United States, without consulting the States or the citizens of the States. Suppose, sir, they should send one of these branches to Frankfort, Kentucky, with a great capital, and under the sanction of the General Government, would it not lessen the profits arising to the State, and to the people of the State, from the State bank of Kentucky, as established by the laws of that State? I presume it would. It would contract very much the circulation of the State bank notes, and would, in many other respects, come in collision with State rights. Every State has a right to regulate its own moneyed concerns; to incorporate banks or not, as interest or inclination may dictate.

But, in the zeal of some gentlemen, to continue this moneyed aristocracy in the United States, for twenty years to come, they have denied the right of the States to incorporate banks, and that Congress alone has the power. This doctrine is new to me. When Mr. Madison and other patriotic states men denounced this measure, as unconstitutional, in 1791, it was not contended that the States had no right. It was admitted, by the lovers of implication, that there was a

concurrent right. Thus we behold the progress of opinion to support a favorite measure.

If this bill passes, and the States have no right to incorporate banks, I suppose the State banks throughout the United States must be put down or burnt up, to give way to this great engine of foreign influence. "The States shall not emit bills of credit." This is the prohibition relied on to take the right of incorporation from the States. Bills of credit is another phrase for paper money. The States shall not issue paper money and make it a legal tender. The men of the Revolution know this. The great calamity which individuals suffered by the paper money, demonstrated the necessity. But no man is obliged to take the bank notes of a State bank for the payment of a debt, or in common transactions. It is at his option, and the moment you get a bank note, you may present it to the bank and demand your money. Not so with bills of credit or paper money, issued and made such by the State. It would be extremely difficult, I presume, for any gentleman to convince the States by argument, that they had no right to incorporate banks, and it would be equally difficult to force the States to destroy their local banks for the United States Bank, owned principally by foreigners.

Not only the bank, in its moneyed operations, would interfere with State rights; but the rules and regulations of the bank, as heretofore established by Congress, have interfered with the laws of the several States in these municipal regulations, as to the tenure of property, and the liability of the corporation to pay their debts.

Mr. Speaker, I have said as much as I conceive it my duty, upon the unconstitutionality of the bank charter. I am to ask your indulgence, while I endeavor to prove its inexpediency, and its dangerous tendency to the freedom of this nation. In the hand of a private citizen wealth will, at all times, have its influence, and may attach to him an importance beyond his merits. But this influence is not so dangerous as to induce a government to interpose and limit the honest accumulation of property by any citizen. And though this wealth may have its influence, it is always limited. It may frequently be in the hands of the benevolent man; and, if not of this character,

this vast wealth seldom survives the death of the individual proprietor. It is either divided among numerous relations, or squandered by his heir.

But not so with a body corporate, extended throughout this vast empire, possessed of a capital of ten millions of dollars, and extending their credit and accommodations to double that sum, notwithstanding their limit to ten millions. It is stated by an advocate for this bank, that the stockholders commenced their discounts with about \$625,000, and that, upon this sum, they discounted to the amount of \$6,000,000 the first ten months after it went into operation. To divide this 10 millions or 20 millions of capital in local or State banks, no serious danger could be apprehended, because the stockholders of one institution would be strangers to all the other stockholders; so of the directors of the different local institutions, and consequently there could be no combination between the different banks.

But it is otherwise, and the danger is imminent, when you, by act of the General Government, give unity of action, unity of will, and unity of strength, to a moneyed aristocracy, vested with a capital of ten millions of dollars, with power to increase their accommodation to twenty millions, and to send their branch banks into the bosom of every State and Territory.

This is not all; your revenue bonds, to the amount of millions, are deposited with this bank for collection, and the public money deposited in this bank to the amount of millions for safe keeping, and their notes made payable to the United States the same as gold and silver. Sir, is there no danger in such a monster, fostered by the General Government, and possessing so many advantages by the laws of Congress? Such a bank, in its beginning, would confine its engagements to the means of payment, but as their credit increases, they engage beyond their means, their vaults are empty, and the institution relies upon its great credit and exclusive privileges. Thus the character of the bank is changed, and it becomes a system of speculation, and a political engine to destroy virtuous individuals, or mold the Government to its notions.

I have no knowledge myself about the political workings of this United States' Bank. But if I were to believe the declarations of members on this floor, and complaints from every part of this continent, I must think that this institution has not been silent and indifferent spectators to the reform of the Administration to republican principles -- but they have endeavored to support that party who gave them a charter. I do not, however, introduce this as a conclusive argument against this bank. No, sir, I would equally object to it in the hands of Republicans. It would still be a moneyed aristocracy, too vast and too powerful not to be dangerous to the freedom of the United States. But without these declarations of political influence exercised by the stockholders and directors of these banks, our own reason would teach us to believe all we have heard of the oppression and partiality of this bank. It is composed of individuals; these individuals have their passions, their feelings, their prejudices, their partialities, and their politics, and they will act accordingly. Self-preservation will always induce them to support and keep in power the party who will be most friendly to moneyed aristocracies and their own institution. The influence of this bank is palpable and notorious. We have the evidence from the long roll of petitioners now imploring Congress to renew the charter.

If in twenty years this bank is to be the idol of some and the alarm of others ---if the solvency of so many individuals depend on it--- if ruin and devastation will, in the event of its dissolution, spread wide in the country -- then, sir, it will only require twenty years more to make it stronger than the Government. To induce us to vote for this institution, we have been persuaded, flattered, alarmed, petitioned, and threatened, and we have been amused with the rise and history of the banking system. It originated in Italy, it has travelled through Europe, crossed the British channel to Great Britain, and lastly, it crossed the wide Atlantic to America. And much has been said of the utility of those institutions. Without dwelling upon the utility of banks at present, I could only admit them as a necessary evil, and not dangerous, if left to the control of our State Governments. But the history of

those banks which have been quoted, will furnish no argument in favor of a national bank.

We wish no political engine of a moneyed aristocracy. We wish to rest upon the virtue and will of the people.

It has been stated that Georgia is republican, notwithstanding this monstrous machine has extended a branch bank to this State -- and it is stated that Connecticut is federal, and has no Branch Bank of the United States. This does not prove that the bank is not a dangerous engine against the liberties of the people; but it proves, that the people of Georgia withstood this dangerous influence, and deserve more credit. It is a proof of the virtue of that people. If this institution is so necessary and beneficial, why do not the representatives of Georgia, who have been blessed with this institution, come forward and advocate a renewal of the charter ? But you find the respectable members of Georgia opposing a continuance of this evil in every form. In fact, the State of Georgia taxed the paper of this bank, and the State was determined, by taxation or legislative prohibition, to drive this circulating medium from their territory. But considerations of wisdom induced a postponement of this determination, until it should be seen whether the charter would again be renewed, in violation of the Constitution, and in defiance of our liberties.

My colleague (Mr. McKee) whose opinions I had been in the habit of considering as my own, until this unfortunate question, which divides us, has stated, that, in his opinion, the dissolution of this institution would be felt by the citizens of the western country, and that our surplus hemp would not command as good a price. I differ in opinion from my colleague, if he supposes the Western country will feel any great pressure from the dissolution of this bank. I grant, the people of Kentucky may not be entirely exempt from some inconveniences common on such an event. But our produce will fall from other very different causes. Interruptions in commerce, stagnation in trade, bankruptcies throughout the commercial part of the United States, arising from the bankruptcies in England, which have occasioned the return of many bills from England protested. These are the causes

which produce distress, and will continue to produce it, [until we are a people less dependent on foreign commerce.](#)

But believing as I do on this subject ---viewing the effects of this great political moneyed institution with abhorrence, I would not vote for it, let the temporary distress be what it may. I would rather see the present crop of hemp brought to one deposite, which would make a bulk larger than this capitol, and consumed with a lighted torch, and ascend to the heavens in smoke as a bonfire, rather than vote for the passage of this law ---and, sir, the people I represent would justify my vote. They would bear the loss without a murmur; they would act the part of freemen worthy of freedom; they would magnanimously bear the calamity without complaint, if their patriotism required the sacrifice. They are a most worthy people. A virtuous people, an enlightened people, a glorious people. Descendants of this great American family, inheriting that spirit of independence which equally sustained our cause under defeat and victory, upon all the battle grounds of the Revolution. I will not be alarmed out of my vote by clamor, no matter from what quarter it may assail me. I never will be driven from my duty by alarms and fears. I will stand firm to the cause I conceive to be just, and the people will support me; they despise wavering and temporising.

If you continue this charter of this bank twenty years more, you can never put it down. No, sir; instead of having petitions which would reach from the Speaker to the seat of the members, you would have them packed upon your table, until they would intercept my view in addressing you. Yes, sir, they would rise up higher, and implore that goddess of liberty which presides over the deliberations of this House.

We are told, that this bank is necessary to the collection, the safe keeping, and the transmission of the revenue, to different parts of the United States. It is stated that the State banks are strangers to us, and cannot be trusted with the deposite of public money. I am sorry to hear such a sentiment. It has originated from a panic, an alarm, an ideal danger. That great and good man, the Secretary of the Treasury, has told you otherwise, by his report now before me, of date 12th of January, in which it appears that, of about

2,460,000 dollars, upwards of 800,000 dollars are deposited in the State banks, \$75,000 of which are deposited in the State Bank of Kentucky, and I should be sorry if it was not as safe there, as in the hands of the United States' Bank, in the possession of foreigners. If State banks will not do, let the United States build vaults for the safe keeping of the revenue.

But, sir, the alarming consequences which must arise from a dissolution of this corporation-- It will deprive us of a circulating medium; it will interrupt commerce and produce bankruptcies. It is to produce the distress of farmers and the ruin of merchants; it is to prevent emigration; and it is to shake the foundations of the Government. This picture gives me no alarm. It is the picture of a wild and distempered imagination. If serious injury will be felt by many in the power of this moneyed aristocracy, I feel and sympathise with the sufferings of those who may be needy without any fault of their own; but something is due to posterity; and even in that point of view, I am not willing to entail upon them the baneful effects of a great moneyed corporation, with a capital of twenty millions of dollars, extending their arms of power and influence to every part of the United States, and having the destiny of good men within their control, whenever they receive the nod to exercise their giant power. No, sir, I am ready to see and feel the sad crisis which has been described. If we die with less money, we shall live in more honor and enjoy more happiness. I wish to see whether so much depends upon this corporation. If so, it is the greater reason why the poison should be destroyed. Like the strong man we read of in Holy Writ, let us see if the violent death of this corporate body will pull down the pillars of the Constitution, that another Volney may sit upon the ruins of this capital, and mourn the fallen empire of this great and happy republic.

Mr. SHEFFEY.¹⁴ Mr. Speaker: It was my intention not to address any observations to you on the subject now before the House, but reasons which I can not disregard, have induced me to request your attention. I am confident, when the importance of the question is considered ---a question in which is involved the integrity of a constitution we all profess to adore, and the prosperity of a country we all profess to love, the House will listen to every thing that can be said, not only with patience, but with pleasure.

I have been led to make the remarks, which I am about to offer, by considerations distinct from the intrinsic merits of the question. In the vote which I shall give, I shall disagree with a majority of my honorable colleagues, whose opinions are entitled to my respect. The sentiments of a great portion of the People of the State which I have the honor in part to represent, so far as they can be collected from the opinions of her Legislature and my own, do not correspond on this occasion; and I must superadd, that no question ever was presented to my mind, in the course of my public duty, which, at first view, appeared attended with more difficulty. I have, therefore, thought it proper to state the reasons of my vote to the House, to enable my country to appreciate them, and my constituents to interpose their corrective, should they deem them unsatisfactory. ---[disregarding the request of the Pennsylvania Legislature, he voted for the renewal of this charter; nonetheless he was re-elected, and five years later voted for the charter of the second Bank]

I had hoped that this question would have been discussed, and determined, abstracted from all party considerations; that our attention would have been exclusively directed to the effects of this measure upon the community, whose interests are committed to us; and our solicitude employed to keep within the limits prescribed by the constitution. But we have been invited to a different course. My honorable colleague (Mr. Eppes) told us the other day, that we need not expect that this question would be determined on any other than party principles; that party principles gave birth to the charter of the bank originally, and that that was the first great question which separated the two parties in this country. Was the fact ever conceded, the conclusion does not appear to me inevitable that this must now be a party question. At that time it was a matter of speculation and conjecture, what means would be "necessary and proper" to give effect to the delegated powers confided to this Government. The light afforded us by twenty years' experience has banished them and substituted certainty in their stead. We have now before us the practical operations of the Government, calculated to show the fallacy of reasonings founded on plausible but untried theories. With these means within their power, it does not appear to me that those act inconsistent with their former principles, who now conceive the necessity of a bank as an instrument to carry on the fiscal concerns of the Government, though

14 Daniel Sheffey (1770-1830) Virginia, Federalist. Apprenticed and worked as shoe-maker; then studied law, admitted to the bar. (at one time he received a \$5,000 accommodation from the second Bank of the United States)

(unaided by the best of all human guides, experience) they might have thought different in the infant state of an operation.

But my honorable colleague has committed an error in point of fact in giving the statement to the House, that this originally was a party question. I had taken it for granted that the fact was as stated by him, but, on recurring to the *Journal* of this House for the year 1791, (which I hope I shall be pardoned in receiving as better evidence than his declaration, however implicitly I might rely on him on other occasions) I find that a considerable portion of the federal members voted against the incorporation of the bank, and a still greater portion of the republicans for it; besides, as the measure was then contested on the ground that there was no constitutional power in Congress to adopt it, which always involves matter of conscience, I cannot submit to the idea that one political party exclusively entertained conscientious scruples when violence was threatened the constitution. This would be degrading one half of the American People.

[Mr. Eppes rose to explain. He said he apprehended, from the various observations which had been made, that he had been misunderstood in what he said a few days ago. He meant to say, that there were, from the commencement of the Government, two opposite opinions entertained, with respect to its powers. One was, that they were strictly conformed to the objects delegated; the other was, that there were certain implied powers which the Government might exercise, that did not appear on the face of the constitution; that the latter opinion gave birth to the alien and sedition laws, and the stamp act, and that this was the party principle he meant, which gave birth to the bank charter. As to conscience being monopolized by one party, he had never entertained any such idea; he knew men of the federal party, who were as conscientious as he was, and as much attached to the welfare of the country.]

Mr. Sheffey proceeded.[§] Mr. Speaker, I do not believe that my honorable colleague was actuated by any improper motive, in making the declaration he did. During the time I have been associated with him in public life, I have had no cause to believe that he was under any such influence. That the opinions stated by him, existed early in this Government, cannot be denied. They are attributable to very obvious causes. On the one hand, those who were the friends of the constitution, were friendly to the exercise of all the legitimate powers confided to the General Government, under the impression that it was necessary to preserve the Union; many, indeed, supposed that the powers delegated were still too feeble to secure that great object, unless supported by a very extensive and liberal construction. On the other hand, there were those who were apprehensive that the powers of the General Government were of a character calculated to swallow up the State authorities, and subvert the rights of the People. These, after their efforts had been unsuccessful in

§ Reality check. A century later, from the records of the federal loan offices in the member states, we found out that at least 29 out of the 90 members of the First Congress that chartered the Bank, were “stock-jobbers” first.

the conventions of the States, on the adoption of the constitution, brought with them (with the best intentions) into the counsels of the new Government, their solicitude for popular rights and State sovereignty, without sufficiently regarding the importance of the Union, and the means necessary to preserve it; and, while some of their political opponents contended for a construction which produced some very obnoxious measures, they, if success had attended their efforts, would have brought the Union to the feeble state in which the old confederation had left it, and I hesitate not to declare, by this time, we should have been a divided, distracted, and enslaved People.

Much has been said, in the course of this debate, about the State rights, and the offence which will be given to the States, should this measure be adopted. There is certainly propriety in preserving to the States their legitimate authority, and in manifesting a jealousy whenever it is threatened with any in fraction; because the rights of the People are then in jeopardy. But, let it not be forgotten, that every relaxation on the part of this Government, weakens the Union, without which, the rights of the People are but an empty name. Sir, he who impairs the powers properly belonging to us, is as much the enemy of the People, as he who subverts the State authorities possibly can be; he is as criminal, who weakens in the least degree, the bonds which unite us, as he who places upon our necks an iron yoke to keep us together.

If we should pursue the course which the observations of some gentlemen seem to recommend, not to adopt the bill before you, because it will give of fence to the States, and bring us into collision with them; to what a miserable state must this Government, and consequently, this Union, be very speedily brought ? It is in the nature of man to thirst for power, and to employ all his means to obtain it. From this spirit, the State Governments are not exempt; but, on the contrary, we have abundant reason to know that it prevails there in an eminent degree. Let it once be established as a principle, not to exercise any particular power, because it is disagreeable to some of the States, and I pledge myself, that, in a very little time, you will not be able to exercise any whatever. You will have to recede, step by step, as they advance upon you, (which they will be sure to do) until you possess nothing but the shadow of authority; and this Union, the last and best hope of the friends of liberty, must dissolve in its own weakness. Sir, I fear, when that is gone, there never will be sufficient patriotism and unanimity, nor a sufficient portion of a conciliating spirit, to reunite us in any form of government, which, while it secures to us the principles of a free constitution, has sufficient energy to maintain itself. The consequences are easily foreseen. We shall be tossed about, divided and distracted, until we finally share the destiny of other nations ---seek repose from the evils of anarchy in the arms of despotism.^{\$}

^{\$} Are you trying to imply that there is no, and cannot be, life outside of this Union ? Was there anarchy and despotism in the member States before they became members of the Union ? What has Federalism led to by the end of the century ?

A principle, equally untenable, and equally productive of mischief, has been advanced in debate, particularly by the honorable member from New York, (Mr. Porter) that no power can be exercised by this Government, which interferes with the remaining powers of the States. Sir, some of the primary powers confided to us are concurrent with the powers of the States. Such, for instance, is the power of internal taxation. Every cent which we draw from the citizen by virtue of that power, diminishes his ability to pay his taxes to the State of which he is an inhabitant, and, consequently, narrows the circle of State legislation. And, indeed, cases might be supposed, where the necessities of this Government required taxes commensurate with the utmost ability of the People to pay, which, in effect, would be a total suspension of the power of the States to lay and collect taxes. Yet, can it be pretended, that, in the amount of public contributions, which it may be necessary to require, we are limited by any other restriction than that which a sound discretion and a due regard to the welfare of the community imposes ? The same principle applies to the means which may be necessary to carry the delegated powers into effect; they may be legitimate, though they interfere with the legislation of the States.

Having detained you thus long with the preliminary remarks which I had to offer, permit me now, sir, to lead your attention more directly to the subject before us.

The most important principle involved in this question, is, whether the constitution has delegated to us the power to legislate upon this subject, in the manner proposed. It is admitted on all sides, that, unless that power exists, let the inconveniences, and even calamities which will follow the rejection of this bill, be what they may, the high duty which we owe to the country, not to transcend the limits prescribed to us, is superior to every other, and must imperiously lead us to that result. In order, therefore, to approach the minor question of expediency, it is necessary to ascertain, whether, by a rational and unbiased construction of the constitution, this power is fairly apparent, either as directly or indirectly given ---either as a power original and express, or derivative and implied.

It has never been contended that the constitution expressly delegates the power to create banks; but that such institutions may be established as instrumental in giving effect to some one or more of the delegated powers. In the course of the observations which I propose to submit on this part of the subject, I shall attempt to prove that Congress are not restricted in the means to execute the delegated powers, except so far as the constitution expressly restricts them; but that they may employ any, which they deem "necessary and proper," without violating the constitution.

To enable us to give correct constructions to the acts of individuals and of public bodies, it frequently becomes important that we should consider the time in which they happened, and the circumstances under which the persons concerned acted. In legislation and jurisprudence, this is a very general maxim, and seems to me peculiarly proper to be called in aid on the present occasion. It will afford us the best ideas of the evils

under which this country labored, when the constitution, under whose authority we now act, was proposed and adopted, and, consequently, of the extent of the relief which that remedy was intended to give.

Let us, then, see what was the situation of this country at that period of our history, and what were the causes which led to that great event. It was not the want of a general government that induced the People of the United States to seek security in the present constitution, but the want of one with sufficient powers for the purposes of union. That want of efficiency which characterized the confederation, emphatically styled "a rope of sand," was not the effect of the limited subjects confided to the deliberations of Congress, but the limited means to carry their determinations into effect. On recurring to that instrument, it will be seen, as has been stated by an honorable member from Kentucky, (Mr. Johnson) that the subjects embraced are little short of those vested in this Government. Congress was clothed with all the great attributes of sovereignty. They had the power to determine on peace or war; to regulate commerce (through the medium of commercial treaties) with foreign nations; to regulate trade with the Indian tribes; to grant letters of marque and reprisal; to coin money, and regulate the value thereof; to raise armies and navies; to borrow money on the credit of the United States; and many other powers of minor importance. Had they had the means to carry their resolutions into effect through the agency of their own executive and judicial authorities, and could their acts have reached the People, instead of being dependent for their execution on the will of the States, I venture to say that this constitution would not have been proposed. It is true, that the organization of the Government, under the confederation, was greatly defective; yet, that was not the cause of its dissolution. It was the imbecility, arising from the want of means, in the old Congress, that assembled the general convention. It was that which produced the constitution of the United States, the primary object of which, and of the People who adopted it, was to place into the hands of the new Government, means commensurate with the due execution of all the powers confided to it. Is it rational, therefore, to suppose, that, under this impulse, under the pressure of the evil which every one felt, and the cause of which every one knew, those who framed and adopted this instrument could have intended that we should be circumscribed in the means deemed necessary to give effect to our measures, or (as some gentlemen strangely suppose) be dependent on the States for them? Is it in the least probable, that the men, selected for their wisdom, perfectly acquainted with the progress of man in every age; who foresaw the changes which the state of society must undergo, in this country, from the increase of population, commerce, and the arts, could act so absurdly as to prescribe a certain set of means to carry on the operations of a Government, intended, not only for the present, but for future generations? There are, indeed, some express limitations, which the circumstances of the times, and the jealousies of the parties, produced; but, they being expressly

stated, prove that the means, not interdicted, remain entirely at our discretion.

When we examine the various parts of the constitution, with a view to this question, we shall see many reasons in support of the principle for which I contend. The last clause of the 8th section of the first article invests Congress with the "power to make all laws which shall be necessary and proper to carry into effect the delegated powers, and all powers vested in the Government of the United States, or in any department or office thereof." To whom is confided the right to judge what shall be "necessary and proper?" I presume it will be admitted that this right is exclusively inherent in Congress. And, if Congress alone have the right to judge of the necessity and propriety of the means, is it not absurd to say that they must judge rightly, or they have no right to judge at all? I have always supposed, when a subject is within the legitimate authority of any men, or body of men, an erroneous decision upon such subject does not prove a want of jurisdiction, but of correct judgment. On this, as on every other subject, there will be a variety of opinions as to what is "necessary and proper." The majority must determine that question; and, although there may, in this, as in every other case, be flagrant abuses of power, for which we are responsible, there never can be any usurpation. It must always be a question of sound discretion, guided by the interests of the Union, and not a question of power; unless, in deed, we should fall in with the fancy of my honorable colleague, (Mr. Burwell) who opened this debate, and interpolate the word "absolutely," so that he could adopt no means but such as are "absolutely necessary," which would leave us, as has been ably demonstrated by the honorable member from Maryland, (Mr. Key) without any power at all.

Every subject which is presented to us within the acknowledged sphere of our authority, involves the question whether it is "necessary and proper." If a tax be proposed, which (as the constitution is expounded by some, and which, I believe to be correct) can only be laid "to pay the debts and provide for the common defence and general welfare" it may be objected that it is unconstitutional: because these objects maybe provided for without any tax, or without the one proposed. But there can be no doubt that this would be exclusively a question of expediency and discretion.

The constitution of the United States has universally been considered as a grant of particular and not of general powers: those powers are the primary or expressly delegated, and the derivative or implied. The character of the instrument precluded the necessity of a "bill of rights," because the question never could arise, what was reserved, but, what was granted. The framers of the constitution were well aware of this; and so were the People who adopted it. It is, therefore, fairly to be inferred, that, whenever there appears a limitation or restriction in the shape of a negative clause, Congress might have exercised the power interdicted, had such clause not been made part of the instrument. By examining this part

of the subject, we will be able to determine how far it was supposed derivative or implied powers would extend when not restricted.

The first clause of the 9th section of the first article, provides, that "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

Among the delegated powers, the right to prohibit the migration or importation of persons into the States, is nowhere to be seen; but it was justly conceived that it was incidental to the power "to regulate commerce with foreign nations." The second clause of the same section restricts the suspension of the writ of habeas corpus to certain circumstances. There is no express power given to any department to grant it, in any instance. But Congress have the power to organize the judicial courts, to which is incident, the power to regulate writs and other processes. And as this celebrated writ was deemed the birth-right of the People of the States, under the State authorities, as the instrument to release them from arbitrary imprisonments, it was taken for granted that its benefits would be extended to them under this Government, and it was conceived necessary to restrict the discretion of Congress in suspending its salutary operations.

In the third clause of the same section, Congress are prohibited from passing any bill of attainder, or ex post facto law. Congress are nowhere directly authorized thus to interfere with the ordinary course of justice, so as to subject an individual to the consequences of an attainder, at their own mere will, without a trial; or, to make an innocent act criminal, by a posterior declaration. But they have the power to define and punish certain offences, which would have implied the power to do it in any manner they might have thought proper: hence it became necessary to interpose this restriction. The next three clauses contain restrictions on the power to lay and collect taxes, and appropriate their proceeds; and shew that it was considered as unlimited, unless expressly restricted.

The last clause in the same section gives a more comprehensive idea of the extent to which the framers of the constitution conceived the implied powers of this Government might be exercised, if not restricted. It provides, "that no title of nobility shall be granted by the United States." The whole context of the constitution does not afford the most distant hint, that the creation of an aristocracy is among the delegated powers. And yet the interdiction to create such a body, the very name of which is so justly abhorrent in this country, was deemed necessary. And why? Because this Government has the power to raise and support armies and navies. It has various important concerns committed to it, in which eminent men may render great and meritorious services. And, as it would not have been restricted in rewarding them according to its pleasure, it might, in conformity with the usage of other nations, have conferred distinction upon them; which, though they could give no exclusive right to office, might be attended with emolument and honor.

If the doctrines which have been advanced upon this floor, during the present debate, are truly genuine and constitutional, then does the history of this country, for the last twenty years, present a spectacle the most alarming: then have the operations of our Government been nothing but an uninterrupted scene of usurpation. From its organization, under the auspices of the first of men and of patriots, until the present moment, violation has succeeded violation; the constitution has been trodden under foot by all parties, and is no longer worth preserving. Sir, I will go further. I venture to say that, if those doctrines are adhered to and acted on in every instance, this Government is at an end. It cannot adopt the simplest measures necessary for its own existence and for the welfare of this People, without resorting to means not expressly delegated. If this critical construction prevails, we have no right to disband one single man from the army or navy. Congress are expressly authorized to raise and support them: but the power to lessen and destroy them, is not to be seen on the face of the constitution. We are invested with the power to regulate commerce with foreign nations; but where is the authority to suspend or annihilate it by an embargo or non-intercourse, unless it is implied ?

To those who are not carried away by these doctrines, pregnant with so much mischief to this community, it is well worth the trouble to examine the operations of the Government under every administration. They will be able to ascertain the opinions of men of every party manifested by their public acts, as to the extent of the means confided to us to give effect to the delegated powers. And this inquiry will, I am persuaded, tend to confirm the construction which I have attempted to give to the constitution.

By the constitution, a judicial department, with limited jurisdiction, is established, to give effect to the due administration of justice, so far as it is confided to the Government of the United States. Congress have made provision for the punishment of perjury, bribery, stealing or falsifying records, rescue, opposition to the execution of judicial process, and other offences. It does not appear that the particular definition to these crimes and the punishment designated are "absolutely necessary." Some other means, perhaps, more conducive to the end, might have been employed; and, indeed, it might be said, that, as Congress, by the constitution, are authorized to "define and punish" certain crimes, it implied a negative to define and punish any other, and consequently those, just mentioned. But can it be necessary to waste the time, or insult the good sense of this House, to attempt to prove, that, in these cases, Congress exercised their constitutional power only ?

The power to borrow money, on the credit of the United States, has been exercised by authorizing the commissioners of the sinking fund to issue certificates, pledging the public faith to pay so much money as therein stated, to be sold in the market for what they could bring. To give effect to the revenue system of the United States, Congress have employed means, which, instead of appearing "absolutely necessary," have a very remote connexion with the object; besides the many penalties and

forfeitures which are created, the citizen is subjected to the more arbitrary searches and seizures dependent upon the mere will of the collector; yet, the authority to do this has never been questioned. Under the power to regulate commerce. Congress have erected light houses, beacons, and buoys, they have established rules for the regulation and government of the seamen in the merchant service; they have adopted measures for their protection on the high seas, and in foreign countries, they have imposed a tax to be exacted from them, even when abroad, to raise a fund for the sick and disabled: they have established in this country, within the jurisdiction of the State authorities, and without their consent, hospitals for their reception and support. How remotely connected are all these things with the primary power "to regulate commerce?" Are they "absolutely necessary" to give effect to that power? Or, can it be pretended that the erection of a hospital is more immediately connected with the regulation of commerce than a bank is with the various fiscal operations of the Government? After having gone thus far, let me ask every rational man, could Congress not incorporate the trustees of such an hospital, with a view to give them individuality, the better to enable them to preserve the funds, and administer the concerns of the institution? Unless there is something magical in the word "corporation," it appears to me there can be no doubt on the subject.

That Congress have the right to create corporations, as instrumental to effect objects confided to them, seems to me susceptible of the clearest demonstration. For example: The power "to regulate commerce" includes the power to "promote it by all possible means." Suppose a new branch of commerce should rise into view, which promised great national advantages, but its commencement was surrounded with difficulties, and required resources to which individual enterprise and capital were incompetent ---will it be contended that the power which erected hospitals to nurse seamen, because it may have a favorable effect on commerce, cannot incorporate a company with certain privileges, so that, while the means of many are united, they can act as one, in promoting the same object? As to monopolies, of which much has been said, though I am not a friend to them, yet circumstances may exist in which the interests of the community will be promoted in granting some, if prudently regulated; and, therefore, the power ought to exist. Under the power to regulate trade with the Indian tribes, Congress have adopted a system which, though not a monopoly in name, is one in reality. They have established trading houses on their own account, and under the severest penalties prohibited every person from trading with the Indians without a licence from the public superintendent. What is this but a monopoly, an exclusive privilege, vested in the Government and persons licenced? And in what do these licences differ in effect from the privileges granted by the incorporation of a commercial company?

By the laws establishing post offices and post roads, various offences have been created, and severe punishments directed, affecting those not in the service of the Government; persons have been exempted from serving

in the militia and on juries, who, by the laws of the States, are expressly subject to that service; this is a direct interference with the State authorities, yet its constitutionality has never been questioned.

The constitution empowers Congress "to declare war," but no express authority is given to preserve peace; yet, can it be doubted that the power to effect that object is implied? With a view to it, Congress have passed laws making it criminal to set on foot any enterprise against any foreign nation with whom the United States are in a state of amity, or to hunt upon the lands belonging to the Indian tribes.

Congress have power to call out the militia to repel invasions. An invasion I understand to mean a military force actually in our territory; yet, an authority has been given to the President to call forth the militia in case there shall "be imminent danger of invasion," with a view to prevent it.

The last instance which I shall give, showing the extent to which Congress have conceived their powers reached, is the purchase of the public library. I would ask the sticklers for express powers, where they find the authority for this act? Sir, taking a detached view of the subject, it might be said that we have the same right to purchase houses for our accommodation. The act can only be justified by reasonings apparently remote from the object. To us are committed the great concerns of this nation. It is our duty to be well informed upon every subject that comes before us; in order, therefore, to be able to get all requisite information, we think a library necessary as one of the means. This course of argument at once proves every thing for which I contend.

Such, sir, has been the uniform practical construction of the powers confided to this Government, by men of every political description. Sir, the principles upon which the constitutionality of this question rests, have not only been recognised, in every shape, but the measure itself has received the sanction of acquiescence, if not of approbation, for twenty years. Although I do not feel precluded from thinking and acting for myself, yet, fallible as I know myself to be, I am induced to have great respect for the acts of eminent men, whose wisdom and patriotism it would be vain in me to pretend to rival. And believing, as I do, that, among the greatest evils which attend republics, are the instability of public counsels, and the want of character and consistency in public measures, I feel it a portion of my duty to entertain some veneration for the acts of my predecessors, supported by time; at least so far as not to dissent from them, unless they appear to me palpably improper.

When the bank was incorporated, the People of the United States, with one consent, acquiesced; not a single murmur was heard; not a single petition was laid upon your table alleging its unconstitutionality, and praying its repeal. Was the patriotism of the community then asleep? Were they less sensible, then, of the necessity of preserving the great charter of their rights free from violation, or less acute in their perception of its infraction, than we are now? Was it left for the Argus eyes of the present generation to discover the deadly powers of this Hydra; and to their

prowess to rise and strangle it? Sir, I should reason differently. Believing that there was as much intelligence, as much vigilance and patriotism, in the country, then, as there are now, I am inclined to think that, had there been real cause of alarm, it would, according to the usual course of things, have been manifested when the subject was new; and when the public attention was immediately directed to it. Since the establishment of the bank, several laws have passed for the punishment of frauds in counterfeiting their notes ---one of them under the late administration. If the incorporation act was unconstitutional, could any person be punished for counterfeiting the notes of the bank? A person accused must be indicted for having made or counterfeited a note or notes purporting to be the act of the president and directors of the bank. If the law is unconstitutional, then, in legal construction, there are no such persons; and as well might the accused be convicted of forging a note on some fictitious person, as the note of a bank when none such existed. How has it happened that, in all the trials which have taken place, this ingenious discovery has never been made? The counsel, always sufficiently vigilant in the cause in which they are engaged, have never pretended to question the legal existence of the bank, involved in the constitutionality of the incorporation act. The courts, composed of the most enlightened men, and of different political parties, sworn to support the constitution, have consigned the reputations of men to lasting disgrace, and incarcerated them within the confines of loathsome prisons, where they have been suffered to remain for years; when a single breath from the Executive would have released them, which it was his bounden duty to do, had the act been considered as unconstitutional. Many of the public acts of the Government might be cited to prove the frequent and uniform recognition of the validity of the incorporation; but I will not fatigue the House with mentioning but one other. As recently as the extra session in 1809, you authorized the commissioners of the sinking fund to borrow money from the Bank of the United States, on the credit of the Government. If the incorporation is invalid, then there is no corporate capacity in the president and directors, and they have no power to make a contract to loan the money of the stockholders.

The necessity of a bank to carry on the operations of the Government, seems to have been admitted by all who have spoken in opposition to the bill on your table. But they have insisted that a bank created by the United States is not necessary, because the State banks will afford us the same conveniences. This admission, in my humble conception, completely surrenders the question. If a bank is necessary, as instrumental to give effect to our fiscal concerns, ought it not to be completely under our direction? Is the instrument to govern the hand that employs it, or the hand the instrument? The State banks are under the control of the State authorities, who may permit them to accommodate us or not, as they please. Can it be seriously conceived that this is the kind of government the People intended to establish for the great concerns of this Union, which is to be dependent on the States for the execution of its

power? It might as well be contended that we have no right to appoint the collectors of our revenue, because those appointed by the States to collect their taxes would answer all the purposes necessary.

But the honorable member from New York (Mr. Porter) has said that there is nothing new in the doctrine that we should be dependent on the States for the execution of our measures, because the same principle appears on the face of the constitution, that the agency of the States is requisite in the election of senators, representatives, and electors. Was this argument even apposite, I should suppose it a correct answer to say, that the intention of those who instituted the Government was to confine the agency of the States to the cases expressly stated; and the present not being one of them, our own discretion was alone to be consulted, and our means employed. But the argument has no connexion with the subject. We are dependent upon the States and the people for the organization of the Government; but whenever it is organized, we are dependent upon our own means to give effect to our powers. As well might the honorable member have contended that we are dependent on the sheriffs of Virginia, who hold the elections, and make the returns, and without whose agency no representation could exist from that State on this floor.

The argument which admits the necessity of a bank for the purposes of this Government, but which contests our right to create one, because that necessity is supplied by the State institutions, leads to the very extraordinary conclusion, that what is unconstitutional today may be constitutional to-morrow. If the States should abolish their banks, or prohibit them from accommodating us, we would have the right to erect them ourselves; but so long as that is not the case, we have not the power. Can any thing show in a stronger light the untenable position which gentlemen occupy, than the necessity which compels them to advance arguments which will make this constitution (intended as the strong bond of union, the same at all times and under all circumstances) a flexible instrument to be contracted or extended, to be feeble or strong, as the caprice of State power may direct? Call this what you will, sir, it is in reality nothing more than the old debilitated miserable system of the confederation. That a bank is necessary for the administration of the national finances, is not only admitted by the opponents of this bill, but tested and confirmed by the experience of other countries as well as our own. Does the Secretary of the Treasury, in his reports on this subject, propose to manage our money concerns without the aid of any bank, in the event of a dissolution of the Bank of the United States? Such an idea has not entered into his imagination, or that of any other man who has the most distant pretensions to any practical knowledge on this subject. Sir, it is the instrumentality of the State banks that must, and is contemplated to be resorted to in that event; and the Secretary speaks and writes of the subject in that way. That a bank is "absolutely necessary" I will not pretend to say. There is scarcely any thing effected by human power where there is a physical impossibility to do it but in one way, or but by a single mean. The necessity of which I speak is this: that it is more convenient, more

prompt, more certain, and less expensive, than any system that can be substituted, to collect our revenue; to safely keep our money; to pay our debts; to support our armies and navies; and, in fact, to give effect to every operation in which money is concerned. Sir, even the inconvenience arising from the expense and hazard of transmitting large sums of money to distant parts of the Union, when the military or other concerns of the Government require it, is very considerable. Through the agency of the bank it is done without one single cent expense, and without any risk to the United States. The instrumentality of a bank was deemed proper at a time when the fiscal concerns of this Government were comparatively but very limited. Congress, under the confederation, found it necessary to have the aid of such an institution, notwithstanding they had not the power to "lay and collect taxes," and that necessity gave birth to the Bank of North America.^{\$}

From the principles for which I contend, and the uniform practice of the Government, this inference is deducible; that, wherever a power is given to do an act, or to legislate upon a subject, all the means, whether remote or direct, to accomplish the object, in any manner deemed best, accompany the grant. If this be correct, have not Congress the right, under the power to "borrow money," to adopt precautionary measures, so that the capacity to lend may exist, when the necessity to borrow requires it? "To borrow" sums of sufficient magnitude for the exigencies of the Government, in a country where there is very little capital free from employment in the ordinary pursuits of life, may be very difficult, unless the small surplusses, scattered through every part, can be united. This tendency banking institutions have, in an eminent degree. Under the power to "regulate commerce" Congress have cherished and protected those whose labor contributed to its success. Under the power to regulate trade with the Indian tribes, they have furnished all the means to carry on that trade; and why not, under the power to "borrow money," incorporate a bank, which, while it creates the ability, on the part of the institution, to loan, by uniting the funds of many, may be so modified, as the bill on your table, as to make it a condition that they shall do so, when the necessities of the Government require it?

Sir, of the effects which the dissolution of the Bank of the United States will have on the community, I am, perhaps, incapable of forming a correct judgment, as I do not profess to have any very extensive practical knowledge of banking. But it appears to me, without resorting to any artificial means, judging only by the rules of common sense, that they must be very serious, and even calamitous. In a society like ours, comparatively yet in its infant state, I presume it cannot be asserted, with the appearance of truth, that there is a greater floating capital, or a greater portion of

^{\$} Not true; and you should know it, but you don't want to. The fact is, it was the bank that needed the government, not the government the bank. Without the government's silver that bank could never have got off the ground. Without the government's silver, even the incorporators of the bank didn't subscribe to the shares of that bank !!

circulating medium, than its necessities require. Withdrawing, then, from public use, fifteen millions of dollars, at least one-third of the whole money capital of the United States, (which it matters not whether it is in specie, or paper answering the purposes of specie) must be felt as a very great inconvenience. The products of the country must diminish in price, because their value, according to the present standard, will be much greater than the amount of money to purchase. One of two things seems to be inevitable, either that a great portion of the domestic produce will be inactive on our hands, or that the whole will sink in value to a level with the amount of money to purchase.

The merchants will more immediately feel the baneful effects of the dissolution of the bank. Their situation is, at this time, peculiarly embarrassing. Their property, to a very large amount, has been confiscated, sequestered, or detained for adjudication in Europe, in consequence of the nefarious measures adopted by foreign Powers against our commerce; and a great portion is lying inactive in their warehouses, for the want of a safe market to which to send it. Having failed in receiving their expected means by remittances from abroad, to enable them to comply with their engagements, they require, more than ever, the accommodation which banks can only afford. Disappointed in that, ruin must stare them in the face, though they may be abundantly solvent; a general, if not a universal bankruptcy will ensue, which, while it falls immediately on the mercantile classes, ultimately affects every department of society. For nothing is more obvious (I wish it was better understood) than that the affairs of this community are so closely interwoven, that no material injury can be done to any one great national pursuit, without finally affecting every other. From this impending ruin, some may fly for shelter to the money capitalists who reserve their means to prey on the misfortunes and calamities of their country, and borrow at exorbitant premiums; but, though this may parry the evil, it is calculated to make it the more certain.

But, we are told that the wants of the merchants can, and will be supplied by the other banks. It maybe so; but, reasoning as I must, without the aid of the mysterious elements of logic, (for they are perfectly so to me) resorted to by those who pretend to practical knowledge; guided only by the rules of common sense, I should come to a different conclusion. I should suppose, that, in the present difficult and embarrassed state of our commerce, the whole banking capital in the United States is scarcely competent to supply the necessities of the country: that, withdrawing more than one-third, must leave a great deficiency, which will not only have the effect of leaving those, accustomed to be accommodated by the Bank of the United States and its branches, without any accommodation, but tend to diminish the discounts of the other banks. Sir, this result is very obvious. The great capital, large deposits, extensive credit, and circulation of its paper, enabled the Bank of the United States and its branches, from time to time, in the usual course of business, to have considerable claims on the other banks, as balances arising from the intercourse between them;

which, in ordinary times, under the influence of an accommodating spirit, are either not rigorously exacted, or received in paper. But, when the affairs of this institution are to be finally closed, those balances must be paid in specie, and the specie of the other banks will, of course, diminish; they must, then, either curtail their discounts, or hazard their credit, by leaving a surplus of paper in circulation, beyond the usual means to redeem it; even the suspicion of which, prudent and experienced men will never encounter.

Against the Bank of the United States, prejudices have been excited and clamors raised, in every shape and in every tone. It has been said to be a deadly viper lodged in our bosom, which, at some time, if suffered to live, will sting us to the heart; fancy has converted it into a political engine which will subvert our liberties: an association of men who will prostrate our Government. Sir, had I nothing to direct but my imagination, I might, perhaps, be drawn into this vortex of terror; but there is a much safer guide at hand. These dreadful apprehensions have already been exposed, by the honorable member from Kentucky, (Mr. McKee) who so eloquently, the other day, referred to the experience of the country, as a conclusive answer. It is the best test of the effect of an institution. I would not give one single year's experience for all the speculations of all the philosophers and politicians that ever existed; by its salutary precepts let the present question be judged. It will be seen that this pretended viper is an harmless animal; that our liberties and our Government have been preserved, and our prosperity has increased, amidst the operations of this fancied dreadful engine. Sir, it will be further seen, that the bank, with all its influence in favor of the men formerly in power, could not avert the change which took place in the public councils of this country. After all this, let me ask every rational man, what danger is to be apprehended from their opposition to the Government, when their aid and their friendship produced so little effect? The fact is, that, practically, the bank must always be friendly to the Government, whatever may be the abstract opinions of the individuals composing the stockholders.

Some of the arguments (or rather assertions) which have been uttered on this floor are strangely inconsistent. At one time it is said that the capital of this bank is mostly the property of foreign stockholders, who thus have improper influence in this country, which ought to be destroyed by putting down the bank. When it is stated by the friends of this bill that it will be a great public inconvenience that upwards of seven millions of dollars in specie should be taken out of the country so suddenly, the same gentlemen tell us, that that will not be the case, for that the foreign stockholders will vest their money in other banks in the United States. Is this the way by which we are to get clear of foreign influence, by driving it from its present confined situation, that it may be infused into every concern in this country, and corrupt every part of the body politic? Foreign stockholders either have undue and improper influence, injurious to our welfare, or they have not; if not, why this clamor, unsupported by any real danger? If they have, is it not augmenting the evil by extending the circle

of its operations? So much has been said about the improper influence which foreigners have in our country, on account of their being stockholders of this bank, that it merits a more minute inquiry; directed, not by prejudice, but by common sense, and governed, not by assertion, but by fact. On looking into the act incorporating the bank, I discover that no person but a citizen of the United States can be a director; that foreign stockholders have no right to vote, either in person or by proxy, for directors. Now, I would ask, without any of those privileges, how is this foreign influence put in motion? Through what channel is it communicated? Sir, the influence is the other way, if any. These men have their interest committed to the care and control of our Government and our citizens, and, so long as men feel an affection for their interest, so long some thing like influence arising from this circumstance may be expected.

The mere employment of foreign capital, instead of being an injury, is a real benefit to the country. It implies a want of a domestic capital co-extensive with our necessities, as it is one of the first axioms in political economy that sufficiently extensive domestic means will exclude the employment of foreign; and therefore the existence of a foreign is proof of the deficiency of the domestic capital. If this idea is correct, the beneficial effects are alone apparent. The foreign capitalist lends us his money, for which he draws eight per cent. as a dividend, which yields us twelve or fifteen; and the tendency it has to promote the wealth of the nation may be exemplified by supposing the case of an individual, who borrows money at six per cent. which, by applying its use to proper objects, yields him twelve. It would make no difference to such an individual whether the person loaning was a foreigner or a citizen; he had furnished the means which made him rich, while, without them, he might have remained poor. So it is with this nation; we have grown wealthy from a comparatively poor state; in this change the employment of foreign capital has had great agency.

It has been alleged against this bank that it confines its selection of directors to one political party, as well as its accommodations. As to the political complexion of those who manage the concerns of this institution, I have no personal knowledge; the fact may be as stated. Without approving of this course, which I by no means do, I conceive that, in all money associations, those interested may safely be trusted to manage "their own affairs in their own way." The statement that the bank confines its benefits to its own party, if true, certainly shows intolerance, and would be with me highly objectionable. But I have great reasons to doubt the fact. I have been told by one of the directors of the office of discount and deposit at Baltimore, that more than one half of the amount of discounts was granted there to persons of opposite political sentiments from the direction; and as nothing but suspicion and surmise have been offered in support of the imputation, I am induced to believe that, as it respects other places, it is equally unfounded. These things, however, if even true, would have no effect on my vote on the present question: for, if the objections are valid, they affect not the principles of the institution, but its management.

I have detained you longer than I intended; my apology for occupying so much of your time must be found in the great interest which this question is calculated to excite; a question on which I confess my opinion heretofore inclined the other way; it was, however, like many opinions, formed without a thorough investigation of the subject. Permit me, in conclusion, once more to direct your attention to a subject of the first importance, on which I have already made some remarks ---I mean the partialities which have been manifested for State rights and State pretensions. This subject has been presented to us in the most lively and interesting colors. To pass the bill on your table, has been deprecated as leading to collisions with the State authorities, to discord, and civil war. Sir, if we have arrived at that point when it becomes necessary to inquire what will please the States, and what acts they will permit, instead of what is right, then, in deed, are our proceedings (and even is our existence) a miserable mockery. If we cannot be permitted to think for ourselves, it is much better to close our doors and go home. If we cannot act independently, but only in the diameter of humble instruments, to register the will of others, let us not act at all. I conceive it a duty equally imperious, from which I have taken a solemn oath not to depart, to oppose the encroachments of the States, as I do not to encroach on them. It is as essential that we should exercise the powers confided to us, uninfluenced by them, as it is that they should exercise those reserved to them, without being influenced by us. If it is seriously wished that this Government and this Union should be preserved, it is time that the spirit of encroachment and control, assumed by some of the States, should be discouraged. If it is suffered to gain strength by our compliance or acquiescence, it will ultimately subvert that liberty and independence purchased by the blood of our best patriots. Here is indeed a viper, (much more deadly than the one fancied by the honorable member from New York (Mr. Porter) which, if you do not expel it from your bosom, will surely sting you to the heart ---sting you to death. The experience of the two or three last years sanctions the apprehension that the seeds of disunion will be sown by the State authorities. There is no well grounded fear that any encroachments by us on the States can ever be successful; they have many means to resist them; they who administer the State Governments are comparatively numerous, and dispersed through every part of the community; hence they will always be able to collect to themselves and to their measures a greater portion of popularity than we have in our power. The distance of many parts from the operation of this Government, and the nature of our powers, create jealousy. If to these causes are added fear and imbecility on our part, the bonds which unite us must become every day more enfeebled, until this Union shall be destroyed ---a Union in which is involved every thing dear to freemen, and which, I had fondly hoped, would endure to the end of time.

Tuesday, January 22, 1811.

MR. SMILIE presented to the House a resolution of the Legislature of the State of Pennsylvania, instructing their Senators, and requesting their Representatives in the Congress of the United States, to use every exertion in their power to prevent the charter of the Bank of the United States from being renewed, or any other bank from being chartered by Congress, designed to have operation within the jurisdiction of any State, without first having obtained the consent of the Legislature of such State; which was read, and ordered to lie on the table.

The resolution is as follows:

In the General Assembly of the Commonwealth of Pennsylvania.

The people of the United States, by the adoption of the Federal Constitution, established a General Government for special purposes, reserving to themselves, respectively, the rights and authorities not delegated in that instrument. To the compact thereby created, each State acceded, in its character as a State, and is a party; the United States forming, as to it, the other party. The act of union, thus entered into, being, to all intents and purposes, a treaty between sovereign States. The General Government, by this treaty, was not constituted the exclusive or final judge of the powers it was to exercise; for if it were so to judge, then its judgment, and not the Constitution, would be the measure of its authority.

Should the General Government, in any of its departments, violate the provisions of the Constitution, it rests with the States and with the people, to apply suitable remedies.

With these impressions, the Legislature of Pennsylvania, ever solicitous to secure an administration of the Federal and State Governments, conformably to the true spirit of their respective constitutions, feel it their duty to express their sentiments upon an important subject now before Congress, viz: the continuance or establishment of a bank. From a careful review of the powers vested in the General Government, they have the most positive conviction, that the authority to grant charters of incorporation, within the jurisdiction of any State, without the consent thereof, is not recognised in that instrument, either expressly, or by any warrantable implication: Therefore,

Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, That the Senators of this State, in the Senate of the United States, be, and they are hereby, instructed, and the Representatives of this State, in the House

of Representatives of the United States, be, and they hereby are, requested to use every exertion in their power to prevent the charter of the Bank of the United States from being renewed, or any other bank from being chartered by Congress, designed to have operation within the jurisdiction of any State, without first having obtained the consent of the Legislature of such State.

Resolved, That the Governor be, and he hereby is, requested to forward a copy of the above preamble and resolution to each of the Senators and Representatives of this State in the Congress of the United States.

Wednesday, January 23, 1811.

Same question depending.

MR. GARLAND said he was sensible of the anxiety of the House on all sides to take this question, and it was with extreme reluctance that he now trespassed on any portion of their time; but, as he should probably, on this question, give a vote different from that of most of his colleagues, and many of his political friends with whom he had been accustomed to act, he trusted that he should stand excused for the small portion of time that he designed to occupy. [he voted for the bill]

In the view (said he) which I intend to take of this subject, it is not my intention to go into a critical examination of the constitutional ground on which it is conceived this subject rests. I am willing to believe that those who made the constitution understood it in all its bearings, and the spirit in which it was adopted; and as many of the persons who were members of the convention were in Congress in 1791, when the charter of the Bank of the United States was granted, I cannot be so uncharitable as to believe that they would have been the first to violate its sacred principles. I am willing to believe that they possessed as much understanding and patriotism as we do, and therefore believe that they would not have been the first to violate the sacred principles of that instrument. In this opinion I am strongly supported by the conduct of the different States, the most of whom have passed laws for punishing, and have consigned to imprisonment, the counterfeiters of the notes of this bank. I presume it will not now be contended that all the States have united in carrying into execution an unconstitutional law, and that the United States have at different times, and under different administrations, recognised its legality and enforced its principles for nearly twenty years.

It does appear to me, Mr. Speaker, that the uniform acquiescence of the country in a measure for such a length of time should put the constitutional question at rest; and, for the sake of something like stability in our proceedings, this should be considered as an adjudicated case, in which the law and constitution seem to have been settled by universal consent. But, Mr. Speaker, I will call your attention for a single moment

to the eighth section of the first article of the constitution of the United States. It will there be found that "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the general welfare of the United States, and to pass all laws which are necessary and proper for carrying the foregoing powers into execution." I shall attempt to show, from this clause in the constitution, that Congress have ample power to pass the bill for extending the charter of the United States' Bank, and this I expect to do without calling in the aid of the general grant of powers as contained in the constitution, from which some gentlemen seem to turn with such disgust; and in discussing this point I shall attempt to reason on things as they now exist. Congress have imposed duties and imposts, which, from their nature, must be collected in the different States. Then, connected with the right of laying is the right of collecting, and with the right of collecting is that of deposite and transmission, in that manner which is best calculated to carry on the fiscal operations of the Government; and the proper inquiry for this House is, How can these objects be best effected ? Will not a bank be most desirable, on many accounts, and one, the paper of which shall be known and well circulated throughout the United States? This bank will receive your money, and transmit it to any part of the United States where it may be wanted, at the risk and expense of the bank. By this means the expense of collection will be lessened, and the money transmitted to any part of the United States, so as to enable the Government to pay the debts and provide for the general welfare. In this point of view I consider the bank necessary and proper; and if it be necessary and proper, then the plain language of the constitution is satisfied, and is not made to depend on being absolutely necessary, as gentlemen seem to argue. And whether this is done by one individual, or by incorporating a number of individuals, is not material on the present question, only as it relates to effecting the object, and that will be best effected by the incorporation of a number of individuals, extending their offices of discount and deposite from one end of the United States to the other, all linked together by common interest and duty.

But some gentlemen say that this will be a corporation, and that all corporations are anti-republican. This is a naked assertion, and is unsupported by any kind of evidence; the propriety of granting acts of incorporation is made to depend on the object to be accomplished thereby; and, to my view, republicanism has nothing to do with the present question; this is only the means necessary to carry into effect one of the specific grants of power contained in the constitution. But it has often appeared to me that the word republicanism is used in this House as a kind of watch-word, without any appropriate meaning or application to the subject under consideration; and in this case it seems to be addressed to the feelings of members more than to their judgment. But, sir, will it be said that, to collect and transmit the revenue of the United States free of expense, is an anti-republican measure ? I presume not. Is any man's rights invaded, or are the great principles of equal liberty destroyed? I presume not. Then what can republicanism or anti-republicanism have to do with the present question ? It does appear to me that it can have nothing.

But, gentlemen say they can furnish us with a substitute to carry on the fiscal operations of Government; and what is that? One gentleman tells us, to collect the revenue in specie, and ship it coast-wise; and another tells us that the State bank paper will answer all the purposes of the Government, and that the State banks will be safe places of deposit for your revenue. But, have not these gentlemen furnished you with strong arguments against both of these plans? They tell you that you need not be under any apprehension of the specie being carried out of the country; that the risk would be so great, that no man in his senses would attempt it; and, notwithstanding, they recommend it to this House as a course to be pursued by the Government. They also tell you that State banks are not to be trusted; that they carry on a kind of licensed fraud, and issue their notes to a large amount, without having any specie in their vaults. If this be true, then I presume that they would be very improper places for the reception and safe keeping of the public, revenue, and therefore should not be resorted to. And this is not the only

objection to State banks; their paper will not circulate generally throughout the United States; there will be a different value stamped upon it in different parts of the country, and it might well be refused by the creditors of the Government. In addition to this, they do not form and keep up that chain of connexion through out the United States that would enable them to transmit the money to such places as the demands on the Government might require.

Then, Mr. Speaker, if the Bank of the United States shall be put down, (a measure which I consider almost certain) your revenue will be payable in specie, and nothing else can be received, agreeable to the existing laws of the land. And have gentlemen given themselves time to consider where this specie is to come from ? Have they reflected that, from the best data on which we can form a calculation, there are less than twenty millions of dollars in actual specie in the United States? ---a sum not more than sufficient to meet the demands of the Government, in one year of commercial prosperity, even if it was in your power to unlock the chest of every miser, and to bring into circulation every cent of actual specie now in the United States. And this, you well know, will not be in your power. And was it in your power to bring into the treasury of the United States the whole amount of specie now in the country, and in that way were you able to discharge the demands of the Government for one year, what will then be left to give currency to the bank paper, as a circulating medium in the country ?

To give currency to bank paper, it must carry with it a belief (at least) that there is, in the vaults of the bank from which the paper issues, a sufficiency of actual specie to render to you a dollar in specie for every dollar in paper which you return them. But, Mr. Speaker, this impression cannot be made in the present state of things. It will very soon be known that the treasury of the United States has gathered into its vaults all the actual specie in the country. This being the case, there can be no specie in the vaults of the bank. Of course the paper will cease to circulate, or, if it circulates at all, it will be at a rate below its nominal value.

But, sir, will those gentlemen, who advocate the doctrine that State bank paper shall be receivable in discharge of the revenue, tell me who is to make the selection from amongst the banks whose paper is to be received ? Do they mean to throw the responsibility from their own shoulders on the Secretary of the Treasury, and make him individually liable, in case the bank should fail ? I presume not; this would be an unreasonable responsibility; and if this is not the case; the public revenues will be exposed to great risk, and frequent losses will be the certain consequence. In addition to this objection, if the Secretary of the Treasury is to be left at his own discretion to take such State bank paper as may suit his mere will and pleasure, without any individual liability, do you not at once give him a decided control over all the moneyed institutions of the country, and an influence greater than what is possessed by all the rest of the Government besides, and that at the risk of the loss of the revenues of the United States? I am willing to admit that I have the highest confidence in the integrity and talents of the present Secretary of the Treasury, but we do not know how long he may hold that office, and we know not who may be his successor; and if there was a certainty that he would continue to administer the fiscal concerns of the Government, still I contend that it would be unwise and unsafe to place so much power and influence in the hands of any officer of the Government that is so far removed from the People, and to whom he feels no kind of responsibility.^{\$}

But, sir, if the Government refuses to receive State bank paper, as I presume they will, then it must depreciate, and will no longer be a circulating medium in the country at its nominal value. We shall then witness the strange phenomenon of a country, with an export trade worth

^{\$} Here we are, twenty years into the existence of the federal government, and we don't know how this government could and should function without the good-offices of private banks !! Really ?! This is the only choice you can imagine: an independent central bank, or a number of independent state-banks ?!

How about an independent Treasury and Treasury Notes ? How about a network of Post-Office banks ?

Once again, the question is not allowed to be asked, much less entertained and examined, “do we need a bank of this type?” “can we not exist without a bank of this type?” No; the only question we are allowed to ask and debate is “Whose bank should we have ?”

upwards of seventy millions of dollars annually, without one single cent in circulation that will be a tender in the payment of debts, or receivable in the purchase of produce at its nominal value. How far this will comport with the interest of this nation is for those to determine who preside over its concerns. It has always been my opinion that the true interest of a nation consisted in her having a circulating medium at least equal to her export trade and one year's revenue; and, if she did not possess that in actual specie, it should be the wisdom of Government to create an artificial capital equal to those objects; and that it should be so secured as to possess the confidence of the nation. Without this circulating medium, the spirit of industry will be checked, agriculture will no longer flourish and a universal stoppage of payment must take place. I hope gentlemen will at least take time to reflect before they draw down on their country those direful evils, and will not suffer their minds to be occupied too much by party feelings, which, in my opinion, have nothing to do with the present question. But some gentlemen seem prepared to denounce every man who does not give his negative to the bill under consideration. Sir, considerations of this kind will have but little weight with me. I know no party but the People; I know no interest but the public welfare; and I shall on this, and on all other questions which are presented for my decision, give such a vote as in my judgment is best calculated to promote these great objects; and if I err, I shall have the consolation that I have independently exercised my best understanding, and that I have not been the blind follower of any political party.

But, Mr. Speaker, I will take gentlemen on their own ground for a moment, and see how this measure will operate. They say that the State banks will go on to issue their paper, and it will continue to circulate as usual; but, sir, let it be recollected that, by the dissolution of the charter of the Bank of the United States, about seventeen millions of dollars are at once taken out of circulation, which is equal to one-fifth of all the floating capital of the United States. Then, independent of the individual distress which this must produce, it will reduce the value of all produce and property in market in the

proportion that the sum taken out of circulation bears to the whole sum now in circulation. I presume that such a state of things cannot be desirable: for, although you may by your measures reduce the price of tobacco, flour, hemp, &c. still you will not be able to procure a bushel of salt, or a pound of sugar, for less than what it is now selling for. But my honorable colleague (Mr. Burwell) seems to think that this would be very desirable. He says it would reduce the price of labor, and, in that way the farmer and planter would be forced to abandon his agricultural pursuits, and become a laborer in some manufacturing institution at low wages, and thereby enable the manufacturer of this country to undersell the manufacturer of Europe. To my mind this appears to be a wild theory, at war with the best interests of the country. I consider agriculture as the fountain of wealth in this country, and commerce and manufactures as the hand maids; and I never can consent to the depression of the former for the benefit of the latter. It would be with extreme regret that I should see the independent cultivators of the soil obliged to abandon their farms and take up their residence in a work shop, and become the dependant of some lordly tyrant, instead of being the independent cultivator of the earth. In addition to this, I have always considered the agriculturist as the best citizen; as entertaining more rational ideas of liberty, and being more strongly attached to the independence of his country; and it is on agriculture that we must rely for wealth in time of peace, and plenty in time of war; and it, therefore, has a primary claim on the patronage of Government.

The gentleman from New York, (Mr. Porter) has told us, that, inasmuch as the friends of the bill under consideration have relied on different parts of the constitution, therefore, no one part gives us the power. The singularity of this idea is manifested to the weakest capacity, and the fair deductions very apparent; I presume that, if the measure can be supported and justified under different views of the constitution, it proves that the measure is abundantly justified on constitutional grounds, and that it is in unison with the general principles of the instrument; and shall we be told, because it has the support of many parts of the constitution, it

is weaker than if it had only one ? To exemplify my idea, suppose a proposition in arithmetic, that by many modes of calculating you could arrive at the same result, would it be said that this was less true than where you could only come at the result in one particular way? I presume not. But, Mr. Speaker, if any measure could derive strength from the inconsistency of its advocates or opponents, then, sir, I am persuaded that the opponents of the bill have done as much in its favor as its friends have against it. I beg you, sir, to recollect the different grounds on which the opposition have relied. Some gentlemen are opposed on constitutional grounds; some gentlemen are opposed because they are afraid the bank will coalesce with the Government, and overturn the liberty of the People; others are opposed because the bank is hostile to the Government; others are opposed because they want a national bank; and others are opposed because a part of the capital stock is owned by foreigners; and here they attempt to awaken all the angry feelings of the nation against the use of foreign capital, while they carefully keep out of view the fact, that a republican administration sold to foreigners all the capital which they had in this bank; and thus, by uniting all those heterogeneous objections, a majority is formed in this House opposed to the passage of the bill. But, sir, I do not expect to derive any aid from these incoherent objections as giving any support to the bill; for, from the zeal that gentlemen have shewn in their opposition to this bill, it was to be expected that they would touch every string that was likely to sound in unison with the feelings of any part of this House.

Mr. Speaker, I shall pass over many of the minor objections that are made to the passage of the bill now under consideration, and come to the conclusions of the opponents of the measure. They are all obliged to admit that the establishment of such a bank as is contemplated by the bill under consideration, would be convenient, and would aid the fiscal operations of the Government, and say that, if it was the only way in which the finances of the country could be administered, then it would be justifiable. And here, in my opinion, the gentlemen give up the constitutional ground: for,

if the measure be necessary and proper to carry into execution any of the specific grants of power contained in the constitution, then the plain language and meaning of that instrument is satisfied, and is not made to depend upon the question, whether there is no other way in which it can be done.

I have endeavored, Mr. Speaker, to examine this subject with candor, and prepare my mind to decide on it without taking into view the ruin of thousands, that must be the certain consequence of withdrawing from circulation at one time, so much of the floating capital of the country. And it does appear to me, in every point of view in which I have been able to examine it, that, at this time, to break in upon the established order of things, under which the United States have progressed in wealth and prosperity, unexampled in any preceding twenty years, would be, to say the least of it, a dangerous experiment.

[Mr. TALLMADGE](#) said, although the bill now before the House had undergone a pretty ample discussion; and although he felt almost disqualified from speaking distinctly, from the pressure of a severe cold, yet he could not reconcile it to his sense of duty to permit the question to be taken on the present bill, without submitting a few remarks to the consideration of the House. In doing this, he would endeavor to place the question on its proper basis, divested of any extraneous considerations, by the admission of which some gentlemen appeared to have lost sight of the true merits of the question.

Before I proceed to discuss the bill now before the House, (said Mr. Tallmadge) I take occasion to remark, that some gentlemen appear to entertain very limited, and, in my judgment, very incorrect ideas of banking institutions. From some observations which I have listened to, I should suppose that a bank was considered nothing better than a broker's office, in which [Jews and money brokers](#) meet to prey upon the community. Others have compared the institution to Pandora's box, from which have issued the principal evils which have afflicted this country. Many similar remarks,

equally crude and irrelevant, have been submitted by some gentlemen, who wish the dissolution of the Bank of the United States. For the information of such gentlemen, I take occasion to remark, that the use of banks by the principal commercial nations in the civilized world, stamps a value upon the institution, too broad and too well attested to be questioned at this time.

The Bank of the United States, whose corporate existence we are called on to continue, seems to have been instituted principally for two purposes, viz. that of discount and deposite. Under the first, loans and facilities are obtained, both by the Government and individuals; and by the last, corporate bodies and individuals are enabled to lodge their money, or other precious treasures, in the vaults of the bank, for safe-keeping, to be withdrawn at pleasure. It will not be a fair course of reasoning to infer, that, because some banks have been used for bad purposes, therefore all must be of pernicious tendency. The abuse of any blessing can never be fairly urged against its use. The great multiplication of banks, by the different States in the Union, proves the sense which the public entertain of their utility. The Bank of North America, which was incorporated in the year 1781, served greatly to invigorate public credit, and unquestionably shed a salutary influence on the measures of that eventful epoch in our Revolution. But I will not enlarge on this point, presuming that few can be found within the sound of my voice, who will question the utility of the Bank of the United States.

The remarks which I propose to submit, will be comprised under the two following general heads:

I. Has Congress a constitutional power to renew the present charter of the Bank of the United States ?

II. Is it expedient, at this time, to permit its charter to expire ?

That the field of controversy may be narrowed as much as possible, it may not be improper to consider the points in which all agree; and, also, the most prominent subjects of debate. I, therefore, consider the three following points as agreed to by the friends, as well as the enemies, of the present bill.

1. That Congress have the constitutional power to make all laws necessary to carry into execution the constitution of the United States.

2. That banks are among the necessary means to enable the Government to carry on its fiscal arrangements.

3. That no positive injustice can be chargeable upon the Government, even if it should refuse to renew the charter of the bank, inasmuch as it will expire by its own limitation. The points in controversy between us are the three following:

1. The opposers of the bill on your table assert, that, to renew the charter of the Bank of the United States, Congress must assume a power not warranted by the constitution. To this doctrine I enter my solemn protest.

2. They further assert, that the State banks are competent to answer all the demands of the General Government in their fiscal operations. This doctrine I can, by no means, admit.

3. It has also been asserted, that the Bank of the United States originated with a party; that it has been supported by a party; and must now be decided on party principles.

The two first parts of this proposition I deny, but fear I shall be constrained to submit to the last.

I come now to the consideration of the constitutional question, and, inasmuch as it embraces consequences very momentous, both to the General Government and to our individual citizens, I hope this honorable House will hear me with candor.

The ground taken by the opposers of the present bill rests upon the tenth article of the amendments to the constitution, which declares that the powers not delegated to Congress are reserved to the States, &c. and hence, an inference is drawn, that, because no express power can be found delegating the authority to grant incorporations, therefore Congress cannot constitutionally exercise such power. The fallacy of this argument may be shown in numberless instances, and from every day's experience in legislation. As a familiar instance, I beg leave to inquire, by what express authority in the constitution has the Government any power to establish custom houses, or to appoint officers for the collection of the

revenue ? And yet, the orderly management of the Treasury Department so imperiously demands the exercise of this power, that no doubt has ever been entertained as to its constitutionality.

In defining the powers of Congress, there seems to be a three-fold rule given in the constitution:

1. Positive as to the power granted.
2. Negative on the General Government.
3. Negative on the States.

If gentlemen will turn to the first article of the constitution, under the 8th section, they will find the powers enumerated which Congress may exercise. Inasmuch as Congress has the power to lay and collect taxes, duties, imposts, and excises, so it is also provided, "That they may make all laws which may be necessary and proper for carrying into execution the foregoing powers," &c. Here is the basis on which I am willing to rest the argument, that the Legislature of the United States has the right to incorporate a bank for the purpose of collecting, in the most safe and facile manner, the revenues of the country, as well as of disbursing the same with the least expense and inconvenience to the Government, in any part of the United States where the same should be needed.^{\$} If it should be conceded, that banking institutions are necessary to the convenient and orderly management of our fiscal concerns, (and I flatter myself this will not be contested) then shall I consider the constitutional question nearly settled, unless it can be proved that State banks can be a safe substitute for the Bank of the United States. On this point, I shall have occasion to remark hereafter.

In the ninth section, under the first article of the constitution, the exercise of certain powers is prohibited to the General Government, but nothing can there be found touching the present question. It must, therefore, be included

^{\$} You carefully leave out, that when this bank was chartered, the Federal government did not use it to collect monies or to safe-keep monies; its charter did not make it the fiscal agent of the government.

Not until May 1800 was an act passed that required the collectors of custom-house duties to deposit the monies in a nearby office of the Bank of the United States.

in the amendment before quoted, the explanation already given of which I hope may be satisfactory to this House.

In the tenth section of the same article, the States are prohibited from exercising certain powers. Among other things, they are not permitted "to coin money, emit bills of credit; make any thing but gold and silver a tender in payment of debts," &c. Although I am not disposed, in this place, to contest the right claimed by the several States to incorporate banks ad libitum, yet I have no hesitation in saying, that there appears to be a more literal restriction on the State authorities to grant charters to banks, than on the Government of the United States. This contraction receives additional confirmation, when it is remembered that, in some States, bank bills have so far been made a legal tender, as to be receivable for State taxes, &c. The inference from these remarks is simply this, that, as bank bills are a species of bills of credit, the several States cannot constitutionally authorize their emission; and as they are the best representative of gold and silver, Congress alone has the power, under the constitution, to regulate the same.

In the modern rage for putting down former institutions, we seem to arrogate to ourselves more wisdom than our predecessors possessed. In the preamble to the act establishing the Bank of the United States, among other reasons assigned for the passage of the law, it was deemed that such an institution "would be conducive to the successful conducting of the national finances; would tend to give facility to the obtaining of loans for the use of the Government, on sudden emergencies, and would be productive of considerable advantages to trade and industry in general."

If such an institution was necessary for the operation of the Government then, it is not easy to conceive that it can be less useful now; nor can it be comprehended why a measure should be deemed unconstitutional in the year 1811, which, in the year 1791, was pronounced by some of the first sages of our country, with Washington at their head, not only very beneficial to the Government, but strictly constitutional. This argument derives no inconsiderable weight from the circumstance that, under all the successive administrations of

our Government, acts have been passed confirmatory of this principle. The law enacted for the punishment of those who should counterfeit the bills issued by this bank, sanctions the original law; and the laws of the different States to the same effect, prove that they had no scruples on this point. The loans which have been repeatedly made of this bank, under the sanction of law, greatly corroborate the opinion, that the charter was not deemed unconstitutional, and I presume most of the gentlemen who now appear so scrupulous about violating the constitution, actually voted for the passage of the law of the last session, authorizing the bank to loan several millions of dollars to the Government. Now, if the original law was unconstitutional, the charter is void, and all the operations of the bank must have been illegal. On the same principle, every subsequent law relative to that incorporation must have partaken of its original depravity, being equally unconstitutional. In the year 1801, a law was passed authorizing the bank to establish offices of discount and deposite in the territories of the United States; under which law the bank was established at New Orleans, for the accommodation of the Government, and yet no constitutional objection was made to this measure, although the sage of Monticello was then President of the United States.

I cannot dismiss this head of my argument without advertng to the use which some gentlemen have made of the terms power and means, confounding them together, as of synonymous signification, in the present question. If Congress possesses the power of collecting and disposing of the revenue, its wisdom must devise the best means of effecting the object. In this view of the subject, the creation of a bank must be considered among the means necessary for the "successful conducting of the national finances." My own judgment has long been settled on the constitutional question, and I cannot but hope that a candid consideration of the views in which I have presented the subject to the House, will induce some gentlemen to hesitate, who may have heretofore been fixed in opposition to this bill.

I come now to the consideration of the second general head which I pro posed to discuss, viz. the inexpediency of

permitting the present charter to expire. In doing this, I will endeavor briefly to state some of the consequences which will probably result from such a measure.

1st. A general distrust of bank credit must be the inevitable consequence. As soon as the bills issued from the Bank of the United States shall cease to circulate, the holders of other bank paper will become suspicious of their ultimate payment, and, of course, will either refuse to receive them in payment of debts, or will send them to their proper banks to receive specie in exchange for them. As evidence of this, I will state to the House that the mere conjecture that such an event may happen, has already begun the call for gold and silver in exchange for bank bills.

2d. Such a measure would be distressing if not destructive to State banks. To prove the truth of this position, I call on gentlemen to examine the report of the Secretary of the Treasury, in which may be seen the amount of notes on hand, issued by the State banks. If these should be presented for payment, nearly the whole of the specie in their vaults would be drawn out, and perhaps some banks might not be able even to meet the demand. The unusual export of dollars from this country, for some years past, and the failure of the accustomed imports, have continued greatly to increase this distress.

3d. It would be ruinous to individuals. Perhaps a more inauspicious period than the present could not have been selected for the destruction of this moneyed institution. Our mercantile brethren have more than \$20,000,000 locked up at this time in Europe, and unusually large importations of East and West India produce are on hand for exportation. Accommodations must therefore be obtained, or their credit as well as property must be lost. I beg gentlemen to re-examine the Secretary's report, where will be seen the amount of discounts in our principal commercial towns.

I then inquire, Mr. Speaker, whether all the specie in the United States is sufficient to pay up the notes which have been discounted by the Bank of the United States, and which are now on hand. If you should oblige them to wind up their concerns on the 3d of March next, they will be constrained to

call in their dues, and as no new loans can be made by this institution after their charter shall expire, so the State banks will be constrained to shorten their discounts, lest their debt should be increased to the Bank of the United States by accommodations to her debtors. In this way the distress will be greatly increased, and the State banks, being crippled in their operation, will be unable to afford the needed relief.

The bills issued by the Bank of the United States, and now in circulation, exceed five millions of dollars. Let this sum be called out of circulation, and the merchant, the farmer, and the mechanic, will sensibly feel its effects.

4th. If this charter should expire, I feel persuaded it must be injurious to the operation of the Government. Of the present regular collection of the revenue I will say nothing; but, of the distribution of this money, I venture to say that no process through the State banks can be so safe or so expeditious. Suppose that the operations of the Government should require the payment of a million of dollars at New Orleans. Through the agency of the United States' Bank, this deposite and payment could be promptly made; but how could this be effected by any State bank? From the very nature of those institutions, the bills issued by the State banks must have a limited circulation, and could not possibly answer on such an emergency. But, if the Government should suffer no inconvenience from the State bank emissions, mercantile men and private citizens must feel the embarrassment very severely. In addition to these considerations, will it be safe for the Government to entrust their funds to moneyed institutions, over which they not only have no control, but have not even the power to demand a view of the statement of their business? On this point I flatter myself there can be but one opinion: and inasmuch as weekly reports are now made to the Secretary of the Treasury, from the Bank of the United States, the safety of trusting the revenue to this institution, rather than to any other, must be very apparent.

5th. It is somewhat questionable, in my mind, whether the honor of the Government will be unimpeachable if the charter of the bank should not be renewed. I have said before, that, in point of strict justice, the Government is not bound to re-

charter this bank; but, when I recollect that, not many years ago, the Secretary of the Treasury sold all the bank stock belonging to the United States (being 2,220 shares) to foreigners, at a premium of forty-five per cent. I cannot reconcile it to my ideas of honorable conduct, to reduce that stock at once to par. By that operation the Government raised the sum of 1,287,600 dollars, making a nett profit to the treasury of 399,600 dollars. If the average rate of dividends has been about eight and a third per cent. on the nominal capital, it is very manifest that the purchasers of this stock of the Government have not received six per cent. on their money, and all the advance paid on the principal must be lost. From the remarks made by some gentlemen, this argument will probably have but little weight; more especially as the purchasers were Englishmen. But by me the same rule shall be meted out to an Englishman or a Dutchman, to a Frenchman or an American.

Give me leave, Mr. Speaker, in this place to notice a very popular objection to the renewal of this charter, because two-thirds of the stockholders are foreigners. Are not the rights of foreigners in our country to be protected as well as those of our own citizens? Is it not enough that, by the act of incorporation, foreigners are not eligible as directors to manage the funds of this institution? I know it has been urged that foreign capital brought into this country is injurious to the community. With this opinion I do not accord, more especially when placed under the direction and control of our own citizens. But, say some gentlemen, in case of a war this influence might be injurious to our country. I should believe the very reverse would be the fact. If it be true that, where a man's treasure is, there will his heart be also, then surely it might be useful for any country to have the funds of its enemies to use and improve in case of a war. Not only would this serve to keep the true owners of the property from being active against us, but it would also serve as the sinews of war to aid us in the contest. So long as the moneyed capital of our own citizens can be better employed, let not the policy of this Government be directed against the introduction of foreign capital into the United States.

I will conclude my remarks on this subject, Mr. Speaker, by calling the attention of this honorable House to a few statements taken from the report of the Secretary of the Treasury, which has been laid on all our tables. From this it appears that the amount of bills and notes discounted, and now on hand, exceeds 14,000,000 of dollars; of which Philadelphia owes about \$5,000,000 and New York \$4,000,000. If these sums should be demanded, is it possible to find the gold and silver in our country to pay them up? Certainly not. What is then to be done? Either the Bank of the United States must extend the times of payment, or the State banks must afford their aid. It is questionable how far it would be safe for the bank to proceed in the first case; and, in the last, it has been shown, that, if the State banks should afford the needed accommodation, their own ruin would be sealed. By a report lately made to the Legislature of Pennsylvania, (which I hold in my hand) it would seem that the amount of all the specie in their State banks did not much exceed 1,000,000 of dollars.

What is the state of the specie capital in the city of New York? If pretty correct information may be relied on, all the State banks in that city cannot produce half a million of dollars. It is then utterly impossible, with all the specie in those two large cities, to pay up the demands of the United States' Bank upon the citizens; and if gentlemen suppose that no distress would ensue from so sudden a pressure upon the citizens, they must have data on which to found an opinion with which I am wholly unacquainted.

As a further evidence of the real diminution of specie in our country, I would state that, in January, 1810, there was in the vaults of the bank of the United States and its branches, \$9,051,704, and in the December following, there was only 5,482,879; making a diminution, in eleven months, of 3,568,825. In the same month of January, the State banks owed the Bank of the United States \$579,653, and in December following, the sum was increased to \$1,516,027. If you add the difference (which is near 1,000,000 of dollars) to the amount in the vaults of the United States' Bank and its branches, in December, the diminution of specie in about

eleven months will be found to be about \$2,600,000. This alarming diminution of the precious metals ought to have some weight with this House in deciding on the present question, that the pressure may not be increased upon the community.

Notwithstanding my full conviction that it will be highly impolitic, as well as peculiarly distressing to the People of the United States, to reject the bill now before the House, and thereby permit the charter of the bank to expire, yet I must confess I am not without my fears, that such is to be the fate of this institution. It can never be sufficiently deplored, that the feelings of party should have ever influenced the measures of this Government. When this prevails, we must expect that rash and impolitic measures will be adopted. On the present occasion, a leading member in opposition to this bill (Mr. Eppes) has declared his belief, that the bill now under consideration was purely a party question, and would be decided accordingly. If this is the case, the fate of the bank is fixed; and on this ground alone can I account for that peculiar apathy and unconcern which is exhibited, when the evils to be apprehended from a non-renewal of the charter have been so forcibly exhibited to Congress, in the numerous petitions which have been presented. But when I further reflect, that agents are known to be within these walls, who are already fattening on the prospect that the State banks which they represent, are to receive the deposits of the Government arising from the collection of the revenue, I fear my feeble attempts to arrest the progress of this desolating spirit will be of no avail.

MR. NICHOLSON.--- Mr. Speaker: As I shall vote against an indefinite postponement of this bill, because I shall vote for the entire bill, when rendered as little liable to objections as possible, and, as this vote will probably stand at variance with many of those for whose opinions I entertain a high respect, I deem it essential, as well for my own justification, as for the information of others, to state the reasons upon which my vote is to be given.

The system of banking being an improvement upon the moneyed system, by which commerce, or the exchange of commodities, is carried on, and therefore still more complex in its operations, and more difficult to be understood, has excited the approbation of some, while it has equally excited the prejudices of others. Those, however, who have been best acquainted with its operations, when properly regulated, have, in all countries, united in a general expression of a conviction of its utility, not only as it respects personal convenience, but also as it regards the facility with which the financial affairs of nations can, with its aid, be conducted.

As this subject has become quite interesting, it becomes the duty of every one to assist in an endeavor to throw all possible light on the subject, not only as to the constitutionality of this Government legislating upon it, but also as it regards its operations and effects; in order that we may have as clear a view of the whole ground as possible, and thereby be better enabled to judge, with more certainty, of the merits or demerits of the bill now under consideration. I shall, therefore, endeavor to explain my views of the subject, as concisely as possible; and if I shall, in any respect, be found groping in the dark, in the remarks which I shall offer, I trust that an ordinary degree of candor will be sufficient to shield me from the imputation of sinister design. First, then, as to its constitutionality.

Perhaps, sir, the doubts entertained by some, of the constitutionality of this bill, arise from an extreme, and, as I conceive, unfounded jealousy, that this Government is calculated gradually to usurp the powers of the State Governments. This jealousy is a foible with many well-meaning legislators; I however respect it, as I am sensible that it arises from a good motive; and I believe that, if it be kept within reasonable bounds, it may, at least, be of no disservice in preserving our federative system of government. Probably we, in some measure, derive this jealousy of the exercise of powers from our ancestors. The crown, the peerage, and the commons of Great Britain, are three distinct and conflicting interests: the crown to preserve its prerogatives; the peerage to preserve their privileges, and the commons to preserve their

rights, if they can. But here, sir, we have neither crown, nor peerage; we have no interest but the interest of the commons, or the People. Our General Government, as well as our respective State Governments, emanate directly from the People; the People have the same control over each; and why we should be so jealous of the former, and so partial to the latter, seems somewhat difficult to determine.^{\$}

When our federal constitution was adopted, the knowledge of a federative system, upon its present plan, was new, and existed merely in theory. The objects, however, intended to be effected by its adoption, are clearly and distinctly set forth in its preamble. They are, "to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty," &c. Yet, in the eighth section of the second article of that instrument, which contains an enumeration of certain specific powers, there is not the same clearness and precision. In the first paragraph of that section, powers are given to Congress to provide for the common defence and general welfare of the United States; and these powers, which are necessarily unsusceptible of precise definitions, are coupled with others, in the same paragraph, in such manner as to render their meaning doubtful, especially in the minds of those who entertain a strong partiality for the powers of the State Governments. The powers of this Government, which arise from the operation of common law, are still more indefinite, and, in the minds of many, difficult to comprehend. Perhaps, sir, generally speaking, it would not be too much to say, that it must remain for that good sense, which is the offspring of experience and mature deliberation, more than to specific definitions of powers, as set forth in that instrument, to ascertain precisely what powers the General Government ought to possess, and what the States ought, individually, to retain. In forming that

^{\$} The stated purpose of the Federalists was to make the central government supreme over the governments of the member States. All those who promote this Independent Central Bank, also support the supremacy of the central government.

What happened in the real world ? It took another 60 years, but by 1870 the central government in Washington became supreme, and the member States became mere organizational units of it. ---so much for the fears of those who in 1811 could see the trend and the direction; and the long-winded flummery about their unfounded fears

instrument, no doubt, sir, such powers, if not all necessary powers, were intended to be given to this Government, as should be adequate to all the purposes of national sovereignty; that it was not, for want of these essentials, to hobble on crutches, through an imperfect state of existence, to premature decay. In short, that it, being like the State Governments, an emanation from the People, should be so far self-existent as to depend for its support on that power only ---the collected power of the People which first ushered it into existence. In the federative system, which I esteem the perfection of the science of government, the rule to be observed, in the distribution of its powers, between the confederated States and the federal head, is, as I conceive, simple and plain. It is this: Can any particular power, which is about to be vested somewhere, be exercised in local and separate districts or States, consistently with the safety and good of the whole? If it can, it ought of course to be exercised by the respective State Governments. All other powers, which cannot be thus confided, consistently with the safety and good of the whole, ought to belong to the General Government.

According to this rule, it will be seen that the powers which belong to the States are much the most numerous, and by far the most important in securing the rights and privileges of the citizen. I am not contending that the federal constitution is exactly conformable to this rule; but it does not, however, essentially vary from it. There are, as I conceive, two or three additional powers which ought to be incorporated in that instrument, to wit: the powers to provide for a general system of education, and to make canals and roads; and it contains at least one power, the "power to establish an uniform system of bankruptcy," which, as experience has evinced, ought to belong to the States. But, sir, the power now under consideration, the establishment of a banking system, I am fully convinced, is properly and strictly within the limits and meaning of the constitution, and I think I can clearly and plainly shew that it is so.

In the eighth section of the second article of that instrument, are contained most of the enumerated powers which are granted to Congress; and the last there enumerated

is the power to make all such laws as are "necessary and proper to carry the foregoing powers, and all others contained in the constitution, into operation." Among those enumerated powers are to be found, powers to raise revenue; to borrow money; to regulate commerce; and to provide for the general welfare. Now, sir, such a bank as is about to be made or re-established, by the operation of the bill before us, is, in my mind, a "necessary" thing to enable this Government to carry each of the foregoing powers into effect. I lay particular stress upon the word "necessary," because gentlemen who oppose this bill have relied much of their arguments upon it.

It is "necessary" for raising revenue.

There is, generally, a profit of about three or four per cent. derived to the owners of bank capital, beyond what they could obtain for the use of their money, by lending it out at legal interest. This being a benefit, which can only be secured to them through the interference and protection of Government, it is but just that they should pay the Government something in return for the favor thus conferred; and the bill before us contains a provision to this effect. Twelve hundred and fifty thousand dollars is the sum contemplated as the least which ought to be accepted by Government, for a mere renewal of the charter, with its present capital, for the ensuing twenty years. By passing this law, therefore, we shall derive to the Government that amount of revenue, which, in these times, is in my mind, no contemptible thing. If the capital of the bank be eventually enlarged to thirty millions, we shall derive at least four millions of revenue from it, in addition to some interest which will at times become due on deposits which may be made in the bank. Thus the passage of this bill becomes a means of raising revenue.

It is "necessary" for the purpose of borrowing money.

Governments, like individuals, in unforeseen emergencies, must frequently experience very pressing occasions for more money than they have at command; and to supply this deficiency, must resort to borrowing of others. A prudent Government, therefore, like a prudent individual, ought to have the means of borrowing made as certain as

possible, in order to avoid the derangement, or distress, which may ensue, in consequence of being unable suddenly to procure a loan. The passing of this bill goes to effect this desirable object; as it contains a provision for borrowing, with certainty, as large a sum as this Government will probably at any time suddenly stand in need of. It is, therefore, in that point of view, very "necessary," and, in all ordinary cases, a great convenience, for the purpose of enabling this Government to borrow money.

It is "necessary" for the purpose of regulating commerce.

A very essential regulation in commercial affairs, is to have that which serves as the representative of all the articles which are the subjects of commerce, as small, light, and portable, as possible. To travel any distance, and carry with you twenty or thirty thousand dollars, of silver money especially, is extremely inconvenient; but, if you can carry in your pocket some thing which represents this sum, the inconvenience is at once removed. Yet, this representative must be such as will be received as such in every part of the country, or else it fails of producing most of its beneficial effects. A man residing in New England, has occasion to go to Natchez, to purchase \$20,000 worth of cotton; but the bank bills of his own State will not pass there; to carry hard money, is incurring a great risk, and, at the same time, expensive in transportation; hence, it becomes "necessary" to provide a representative of hard money, which will be received as such in every part of the country; and that can only be done by the establishment of a bank, whose bills will have this general currency. Thus, the passage of this bill, or something similar, is "necessary" for the purpose of regulating commerce.

It is "necessary" for the purpose of promoting the general welfare. This expression is certainly very broad, and seems, at first view, to include a great deal. For this reason, many well meaning politicians have been startled at the idea of a delegation of powers so indefinite, and so comprehensive. I imagine, however, that the expression is not pregnant with any mischief or danger. It certainly would not be "promoting the general welfare," to place any power in the hands of this Government, which could as safely, and as consistently, with

the good of the whole, be exercised by the respective States. It would be upsetting the first and leading principle of a confederated Republican Government. If we, therefore, invariably adhere to this leading principle, we shall find the expression not only harmless, but very proper to be placed in the constitution. What I have already said of this bill being necessary for the purpose of raising revenue, for borrowing money, and for regulating commerce, is perhaps all that is necessary to be said, to shew that it tends "to promote the general welfare;" because, in this case, the one is necessarily included in the others. Permit me now further to add, sir, that this bank, and its branches, are also essentially "necessary" for the collection of your revenue, for its safe keeping, and for the purpose of transmitting it from one part of the Union to another, as occasions may frequently require.

We are indeed told, sir, that our revenue can as well be collected by, and deposited in, the State banks. What, all the revenue collected in any one State, to be deposited in one State bank? No, we are told, we will put five or six hundred thousand dollars in one bank, as much more in another, and so on, until we get it all stowed away in some way or other. Indeed! What an admirable plan ! And which banks will you select for this purpose? Will not the selection of one, excite the envy and opposition of others, so as to induce them to unite in endeavors, and perhaps successfully, to ruin such selected bank? Will these selected banks pay the United States as large a sum as is contemplated in this bill, for the privilege of having the revenue deposited in their vaults? No, they contemplate nothing of the kind. It would be a bribe, we are told, sir ! Besides, it is even said by some, that three or four millions dollars is but a paltry sum, unworthy the notice of this Government ! Can you contrive any method to compel the directors of such selected banks to render you, at stated times, a true statement of their situation, of their discounts, of the sums due them, of their deposited, in order that you may be convinced that it is safe to trust so much money with them? No, Suppose you want to borrow money, how will you manage matters then? Why, we will borrow a hundred thousand dollars of one bank, a like sum of another, just as a

needy man borrows a dollar of one, two of another, and so on, till his wants are satisfied. Better still ---this is really excellent ! Well, suppose you wish, and have made out to borrow, as much, as you have to send the money to a different, and perhaps distant, quarter of the Union, are you certain you can make it pass current there ? Will not those banks, which have not been so fortunate as to have received a share of governmental favors, take measures for counteracting any such currency? And would it be just to pay off a poor old soldier his hard-earned pittance in bills on which he would probably be obliged to make a discount of five, ten, or perhaps twenty per cent. before he could get them off his hands? Gentlemen, sir, who oppose this bill, have got into a dilemma, in opposing it on the ground that the State banks can be made to answer the purposes of this Government; as they thereby virtually admit that banks of some kind are "necessary" in managing its concerns. The point of difference then becomes resolved into this: what sort of banks are necessary? We all understand that the stockholders of State banks would be glad of a slice of the "loaves and fishes." My neighbor, who keeps a horse to let, might say to me, it is not "necessary" that you should keep a horse, for I keep one, which I should be glad to have you make use of. In such case, the arrogance of my neighbor would be so manifest, that all would commend me in telling him that his horse was but a sorry animal, which he might keep to himself; and that I knew best what kind of horse suited my purpose. Sir, State banks are the creatures of States; this Government cannot control them, and, therefore, ought to have no concern with them. If, however, particular States will be so arrogant as to insist that this Government shall make use of their creatures, why can they not, on the same principle, go a little further, and say to this Government, "here is a collector, a district judge, or a district attorney, which we have created ready to your hands; it is not "necessary," therefore, that you should create these officers within our jurisdiction, because those which we have created will fully answer your purpose?" We are not quite ripe for this mode of doing business, sir; but I believe we are in a fair way for its

accomplishment.

I perfectly understand, sir, that this preposterous plan of substituting State banks, has been suggested, and in some measure, urged, through the influence of some of those banks. I see runners out from different quarters, endeavoring to convert people to this new doctrine. I see presses prostituted to the purpose of endeavoring to raise a popular ferment against the passage of this bill, or any other of a similar nature; but, that any disinterested man can seriously think, that this miserable quackery with which it is proposed to administer to the wants of the body politic, is really worth a moment's attention, is more than I am willing to believe. Should it, however, prove too true, that a measure which, [during the last session, could have been carried by a majority of nearly thirty](#), shall now be lost, although I shall deplore that instability of opinion which shall have produced this sudden change, or that dereliction of independence which should yield to temporary clamors, artificially raised, I shall, nevertheless, console myself with the conviction, that time and experience will correct the error, and that the merits of this measure will hereafter be decided upon with more correctness of judgment.

But, sir, I have thus far merely shown that this bank, or some other of a similar nature, is "necessar" in several distinct points of view, to the purposes for which this Government was established. I have not, however, shown, nor can I show, that it is indispensably "necessary." But here, sir, lies the error of those who have contended against the constitutionality of the measure. It will be recollected, sir, that, when this bank was first established, those who opposed it on constitutional grounds, and for their opinions I have the highest respect, contended that, although the measure might be useful, fit and expedient, yet, if it was not indispensably "necessary," it must, of course, be unconstitutional. Let anyone examine the debates of that time, and they will perceive that this was the strong ground of opposition that was then taken, and the same ground is now taken; but to this I reply--- If the words of the constitution were, that "Congress shall have power to make all such laws, only, as are indispensably necessary to

carry the foregoing powers into effect," then, indeed, the opponents of this bill would, on constitutional grounds, be correct; because, that, although the Bank of the United States, or a national bank, if you please, maybe a "necessary appendage to this Government, still are neither of them indispensably "necessary;" this Government can do without them in the same manner that a farmer can do without a hoe, by substituting a spade, or that a carpenter could do without a plane, by substituting his broad axe.

The word "necessary" is of the class of adjectives, and admits, though irregularly, of the degrees of comparison incident to words composing that, part of speech; the positive, necessary; the comparative, more necessary; and the superlative, indispensably necessary. We mean by the first, needful, fit, or proper; by the second, more needful, fit, or proper; and, by the third, that which we cannot do without. If the words of the constitution were, "Congress shall have power to make all laws which shall be needful, fit, and proper, for the purpose of carrying the foregoing powers into effect," the difficulty would, probably, vanish at once; as I trust we could soon determine whether a Bank of the United States, or a national bank, is a needful, fit, and proper appendage to this Government. But, sir, we have first given to a harmless expression a most formidable meaning; we have made the word necessary mean indispensably necessary. And, having thus raised a mountain out of a molehill, we are now about to resolve, very wisely, no doubt, that we cannot get over the mountain.

If I were to agree to provide a farmer with such tools and implements as are necessary for carrying on the business of farming, I should suppose that I was bound to provide all such tools and implements as are commonly used in that business. I could not say to him, here is a sled, which must answer the treble purpose of sled, cart, and wagon; or here is a spade, which must answer both for digging and hoeing; I could not avoid my engagement by telling him the cart, the wagon, and the hoe, were not indispensably necessary; because he could make the sled answer the place of the two former, and the spade the place of the latter. No, sir, this would not be

complying with the terms of my engagement. Now, sir, it is a poor rule that ought not to work both ways alike.

The People of the United States have granted to Congress certain specified powers; and have further granted the means, that is to say, the necessary tools and implements, for carrying those powers into effect. By this grant, then, it becomes proper for us to make use of all or any of the means that are needful, fit, and proper, for effecting these purposes; but, sir, we are about to determine that we will not make use of some of them as long as we can possibly do without them; we will reject the cart, and the wagon, because they are not indispensably necessary; we will mount ourselves upon the sled, and thus we will heavily drag along the concerns of this Government. Sir, in the estimation of some, this may be wisdom; it may be patriotism; but, in my estimation, it is neither: it is folly; it is destructive to the best interests of this country.

I shall further here observe, that, if we are determined to test the constitutionality of all laws which are passed by Congress, by their being, indispensably necessary, we shall find that a great many unconstitutional laws have been passed. During the last session, we passed a law for creating three new officers in the post office department; yet no one will pretend that the passage of this law was indispensably necessary; because that department had been, and could still have been, conducted without them. Indeed, sir, if you look at your statute books, you will see that many laws have been passed that were not indispensably necessary, but were merely needful, fit, and proper. Even this splendid hall must stand in judgment against you, if such a narrow construction of that part of the constitution is to prevail; these pillars, of costly workmanship, which surround us, and the elegant dome which they support, were made in conformity to the laws passed for the purpose. And are they indispensably necessary? Could we not do the business of this nation in a room that should not have cost one tenth of the money that has been expended on this? Instead of these easy and expensive seats, with which every member is accommodated, could we not sit on such as that on which "the immortal Alfred

sat?" Again, sir: laws providing for the erection of light houses and for the establishment of a military academy, have been passed by Congress. These laws must spring out of the power given by the constitution to promote the general welfare;" for to no other power, given by the constitution, are they properly referrible. Erecting light houses is not "regulating commerce," properly and strictly speaking; neither is teaching military science, to those who are not soldiers, "raising and supporting armies;" but each are means of "promoting the general welfare," by the usefulness of the former to commercial business, and of the latter to armies, when they shall have been raised. But are either of these indispensably necessary? Certainly not. But, perhaps, I have said enough on this subject. Believing, as I do, that the General Government ought to possess all such powers as necessarily concern the best interest and good of the whole, and believing, too, that the constitution, however indefinite it may in some instances be found, was intended to contain a grant of such powers, with the exceptions which I have before mentioned, it must remain for others, and not for me, to gauge and limit, it to such narrow constructions as are equally incompatible with the purposes of national sovereignty, and the obvious meaning of words in our mother tongue.

There can be no doubt, sir, that our written constitutions are of excellent use in designating the form, and drawing the outlines of Government, in such manner as renders them but little liable to capricious variations. While, in this way, they serve as durable landmarks to those in power, they will, also, be of essential benefit to posterity, if they should incline to a degeneracy of political principles, by exciting their emulation, in holding up to view those principles by which their nobler ancestors were governed. Having been the originals, however, in the adoption of written constitutions of Government, we have made them quite a hobby-horse; and seem to imagine them adequate to all the purposes of preserving our liberties forever. For myself, I am not quite so strong in this belief. I fear that, if we place too much reliance on this specific, without providing some other means for guarding and preserving our liberties, they may depart from us while we are in full

possession of our written constitutions. Instead, then, of being over scrupulous about giving to particular expressions, in our constitutions, a narrower meaning than they obviously import, let us try to investigate the principles by which powers must necessarily be regulated in a free confederated republic, if regulated as they ought to be; and, having ascertained this point, having ascertained what powers necessarily concern the whole united, and what powers may be locally exercised, without injury or danger to the whole, we can then easily perceive what ought to be, and what is the real meaning and intent of words in our written constitutions. And, above all, let us not be terrified by those who, for want of better arguments, appeal to our fears; who tell us of the danger there is in adopting this or that construction, or this or that measure: that, if you admit of powers by implication, you open a wide vortex, in which will certainly be swallowed up all the powers of the States; or that, if you adopt one measure, you will, therefore, adopt another, and another, until you have absorbed all powers whatever. Sir, this kind of argument, if argument it may be called, has become stale with me; it has no weight on my mind; and, for this simple reason, that demonstration and prophesying are two very different things. Whatever may have been the case in ancient times, I have always observed, in my own day, that weak arguments, and a spirit for prophesying, are usually coupled together. In my mind, there is mere danger that the State Governments may, from the selfish motives or the ambitious views of some, eventually reduce this Government to a mere skeleton of power, than that this is ever essentially to weaken the powers of the States. I trust, however, that the danger of the one absorbing the other is not very great on either side. As all our Governments emanate from the same source, the People ---this for national, and the others for local purposes--- as long as we retain our present equality of condition, and of rights, and our consequent independence of sentiment. I should suppose that even a sense of convenience alone would always correctly dictate where the different governmental powers ought to be placed. The danger to civil liberty, therefore, lies, not in the formation of our different Governments, but in the

foundations of civil society. If our descendants should lose sight of those principles of civil liberty which we have learned, or if the condition of men should become so unequal, as to produce a state of abject dependence of the many upon the few, then, and I trust not till then, will our present civil institutions be in danger of being overturned.

As I proceed I shall here briefly notice an amendment to the constitution, under which my worthy colleague, (Mr. Porter) and an honorable gentleman from Pennsylvania, (Mr. Seybert) have taken refuge, in order to fortify themselves with an argument against the constitutionality of this bill. It is in these words "The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People."

If gentlemen really imagine that they have discovered any thing in this amendment, which goes to render the passage of this bill unconstitutional, I shall merely observe, that

"Optics sharp it needs, I ween,

"To see what is not to be seen."

If any thing be absolutely passed from one to another by grant, as is the case before us, the grantor becomes divested of that thing, and it becomes immediately vested in the grantee. All then that is necessary, in the present case, is first to ascertain what powers are granted by the constitution: for it is very certain that what are not granted are still vested in the grantor. A has granted to B certain things; now, says A to B if my hat is not included in this grant, the hat shall still be mine. Agreed, says B. This is a very plain case, sir, and how such intelligent gentlemen could think of entrenching themselves behind this amendatory article, which, in fact, means nothing, is really more than I can conceive.

But, my worthy colleague, to whom I have just referred, has taken another ground, on which he has attempted to rest much of his argument against the constitutionality of this bill, and which is therefore worthy of some notice that is, that, by the constitution, this Government derives no powers by implication. Sir, this appears to me the most absurd doctrine that I have yet heard advanced on this subject. It would be a

waste of time to go into lengthy details to show the absurdity of this proposition; but let me ask that gentleman wherein could have existed the necessity of those amendments to the constitution, which are almost wholly restrictive, if it was not admitted that, without these amendments, Congress would have had an uncontrolled power to legislate on the subjects to which they refer; and yet many of these subjects of legislation are not even mentioned in the constitution. The first of these restrictive amendments is, that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or of the right of the People peaceably to assemble, and to petition Government for a redress of grievances." Now the constitution is silent on all these subjects; yet, if Congress possess no powers to legislate upon them, where could have existed the necessity of restricting them by this amendment, to certain bounds, if they should at any time deem it proper to make them the subjects of legislation? Again, sir, the constitution makes provision for the establishment of a judiciary, but says nothing about the system of law, whether the civil or common law, by which the courts, thus established, are to be regulated; how was it then understood that the common law was to be adopted? By implication, undoubtedly.

But, sir, in showing that this Government derives many powers by implication, I am sensible that I am travelling somewhat out of my way. It is sufficient to say, that the power of passing this bill is not derived to this Government by implication; the power accrues by express terms in the constitution the power of providing the best means for carrying other governmental powers into effect. There is one other ground which my worthy colleague has taken, in his endeavor to show the unconstitutionality of this bill, which I also deem worthy of some slight notice: that is, that the constituted powers of this Government are mere delegated powers, not from the sovereign People, but from the States, as States! And how does he prove this strange doctrine? Why, says he, if the States should neglect or refuse to elect the Senators which compose one branch of this Legislature, this

Government would be dissolved. Therefore, this Government depends upon the will of the States for its organization; and, therefore, it is a creature of the States! Really, sir, this is very profound reasoning! Let us just look at the other side of the question, sir, and we shall then be enabled to see what a very convenient method of reasoning this is. I am going to prove, in the same way, the very reverse of this proposition; that is, that the constituted powers of this Government are mere delegations of powers, not from the States, as States, but from the sovereign People. I prove it thus, sir: If the sovereign People should neglect or refuse to elect the Representatives, which compose one branch of this Legislature, this Government would be dissolved: Therefore, this Government depends upon the will of the People for its organization; and, therefore, it is a creature of the People. In the same way, sir, you can prove that the State Governments owe their existence to the will of the returning officers of the different counties; because, if those officers should neglect or refuse to make the returns of the elections, there could be no State Legislatures, and thus the State Governments would be dissolved. Therefore, a State Government depends upon the will of the returning officers: and, therefore, it is a creature of those officers.

Admitting, for argument sake, that we could not go to elections unless our horses would carry us there, we can, in the same manner, prove that all our Governments are creatures of those animals: because, if our horses should refuse to carry us to the election polls, there could be no elections; if there were no elections, there could be no Representatives chosen; and, if none were chosen, there could be no Legislatures; and thus the Governments would be dissolved. Therefore, all Governments would depend upon the will of our horses; and therefore, they would be mere creatures of those animals. We are very apt to run a wild goose chase, sir, when we attempt to demonstrate, by reasoning, facts which are obvious to the senses. Thus, if you would prove that there is heat in fire, don't go to reasoning about it, but put your finger into it, and the fact will be ascertained at once. In the same manner, when we want to

ascertain whether this Government is a creature of the States, as States, or whether it is a creature of the People, let us just look at the constitution itself ---the text book, as an honorable gentleman from North Carolina calls it--- and there we can ascertain the fact precisely. Its preamble determines the point. The words of that preamble are, "We, the People of the United States," &c. Not "We the United States," &c.

But, sir, even if this Government was a creature of the States, as States, what bearing could it have on the question before us? Ought we, on that account, to give to words in that constitution a different meaning? Would the words, "Congress shall have power to make all laws which are necessary and proper to carry the foregoing powers into effect," be liable to different interpretations, according as it should be ascertained that this Government is a creature of the States, as States, or of the People? Certainly not.

I have thought proper, thus far, to notice some of the principal grounds on which my worthy colleague has rested his arguments against the constitutionality of this bill; because, if these grounds are not tenable, his arguments must fall of course; and thus would be justified the assertion of the honorable gentleman from Massachusetts, (Mr. Pickman) that the whole argument, taken together, is "an ingenious piece of sophistry." It is so, indeed; and it is nothing more. Another inducement which I have had for this, is, to enable myself with propriety, and at the same time with pleasure, to observe, that the grounds taken by my colleague, have been the principal reliance of the opponents of this bill; as many gentlemen on that side have, probably with a very becoming diffidence in the strength of their own views of the subject, pointed to him as one amongst them whom they seemed to imagine had sustained the argument ---a tribute of applause which I think those gentlemen were bound in conscience thus justly to bestow.

Having, as I trust, obviated the constitutional difficulties which have been urged against the passage of this bill, it remains to say something about its merits; and in doing this, I shall be as concise as possible. It would be arrogance in me, sir, to go into a lengthy and minute detail of the operations of

banking, as it is proper to presume that every member has made himself acquainted with the subject. I might, however, be permitted generally to observe, that, from the constant depreciation of gold and silver money for centuries past, and the probability of their still continuing to depreciate, the necessity of a well established banking system becomes, every day, more and more obvious. Ten thousand dollars, which in these days is but a moderate fortune, is nearly a cart load in silver. Thirty years ago, half that sum would purchase as much as the whole will now. Possibly, in the course of a century, a pound weight of gold will not be more valuable than a pound weight of silver is at present. Gold, as a currency, will then have become very cumbersome; and silver, as a currency, will then be scarcely portable. What then is to be done? Why, put these metals into the vaults of banks, and issue, in paper, that which represent a them; or rather, that which jointly represents them, and the promissory notes, or rather liens on property which are deposited there. This, sir, is the only remedy of which I can have any conception; and therefore it appears to me highly important, that the best possible plan of banking should be devised and adopted by this Government.

It has been my opinion, sir, that, instead of the present United States' Bank, a National Bank ought to be established, upon a general plan, and be so organized as to invite, and eventually draw into it, much of the other banking capitals, in order that the business of banking might be reduced more to one entire system; that it should not be under the control of Government, but nevertheless under their inspection; that, for this purpose, Government should appoint a small proportion of the directors in every branch, and in the mother bank, whose business it should be to render, at proper intervals, stated accounts of its debts, discounts, and deposits, in order that it should always appear that it was properly conducted, and kept within due bounds; and finally, that Government should share such part of the profits of the establishment, as might be deemed reasonable. Proper provisions ought also to be made to prevent its being rendered subservient to political or party purposes, which I imagine would be no very difficult thing.

The principal advantage to be derived from a general system of this kind, in addition to some which I have before mentioned, would be, first, its affording a permanent revenue; secondly, its greater security and stability; and thirdly, the uniformity of its currency, and the better means of providing against losses by counterfeiting. I am, however, sensible, sir, of the great difficulty of convincing every one, by whose vote it must pass, of the practicability of any new plan of this kind, however perfect, and well matured it might be when offered. I am also sensible of the inconvenience of pulling down one system, in order to build up another, and of the distress and ruin of individuals it would occasion, if it should be done suddenly. I am, therefore, willing to adopt such plan, as, if not the best, shall be thought, by a majority, the most expedient at present, and leave to futurity the building up of a different system. I shall therefore vote for a mere re-incorporation of the present bank, if nothing better can at present be had; and if any thing can be added to it, by way of improvement, so as to render it less exceptionable, I will also vote for that.

Perhaps, sir, it might be as well to re-incorporate the present bank for eight or ten years only, and, in the mean time, be making provision for building up another, upon a more approved plan.

I conceive, sir, that the advantages of banking depend much upon the manner in which the system is organized. If properly organized, they are undoubtedly a great national benefit; if badly organized, they become a nuisance to the community; and some of the banks which were established in the Eastern States, are striking instances to illustrate the truth of this remark. Generally speaking, it may be said, that all petty banks are in danger of becoming such nuisances; because they are but too apt, in the first instance, to be established, and sometimes managed, upon improper, or even dishonest principles. In some instances they have proved mischievous, from the mere ignorance of those by whom they have been managed, of the only true principles on which banks can be safely conducted.

When properly organized, the great and most essential benefit derived, consists in the saving of labor, if I may so

express myself, in procuring the requisite quantity of gold and silver, to represent all the various articles of wealth in a nation. Suppose, for instance, that a million of inhabitants were to be placed by themselves, without any gold and silver amongst them, but, at the same time, with a sufficiency of all the other articles which constitute wealth; they would then require, say five millions of dollars for a circulating medium, to represent those articles, in order to be enabled to carry on commerce or exchange, amongst themselves; of course five millions' worth of their articles of wealth, or, in other words, five millions' worth of their labor, must be sent abroad to purchase and bring back this necessary quantity of gold and silver. Now, by the establishment of a banking system, on proper principles, one half of this hard money would answer their purpose, and thus they would save to themselves two and a half millions' worth of their labor, or its products, which they could apply to other purposes.

Now, the territory of the United States will, according to their present ratio of increasing population, in the course of a century, be filled with a hundred millions of inhabitants. They will therefore require, say five hundred millions dollars for the necessary circulating medium; at present, there is, say forty millions in circulation; of course four hundred and sixty millions' worth of the products of their labor must, in the course of a century, go abroad, to bring back its value in gold and silver, to provide this necessary circulating medium. But, if we can establish and perpetuate a safe and durable banking system, only one half of this value in the products of labor need go abroad to bring back the requisite quantity of gold and silver; and thus a gain is, in that time, made, to the amount of two hundred and forty millions' worth of labor, which would probably be nearly sufficient, to make all the canals that may become requisite within our territory. I have made this statement in general terms, to show how immensely important it must be to the United States to establish a banking system, upon the most durable and best possible plan.

An honorable gentleman from Virginia on my left, (Mr. Burwell) has informed us, if I understood him rightly, that he

is, on the whole, opposed to the banking system entirely, because it tends too much to encourage commerce; that we are already too commercial. I am sensible, sir, that, in the Southern States, a prejudice has existed against commerce; and this very prejudice has served to build up a great many houses in our Northern towns, at the expense of the Southern States, because, if those States, particularly Virginia, had exerted themselves in encouraging commerce to be carried on within their own limits, much of the wealth, so rapidly acquired in commercial pursuits, which is now to be found in those towns, might have been amassed in those States. But does that honorable gentleman really believe that, by putting down this bank, there will be less banking business done in the United States? No, sir, the capital that is now employed in this bank, will soon find its way into State banks. Permit me also to say, sir, that the notion of trying to make ourselves less commercial, is idle and visionary; it is the "stuff that dreams are made of." I admit, sir, that, for the purpose of rendering ourselves less dependent on other nations, it might be well to encourage manufactures to a certain degree. But suppose we should, would we be essentially the less commercial on that account? I trust not. Commerce seems to be congenial to the disposition of a large portion of our countrymen, and it is in vain to attempt to change their habits and pursuits. Indeed, sir, if we will but look at the nations of the world, both of ancient and modern days, we shall find that those who have been most commercial, have ever been the most active, enterprising, intelligent, and free. I consider commerce as one of the great levers by which the world has been raised from darkness into light; from barbarism into civilization and refinement.

An honorable gentleman from Maryland, (Mr. McKim) has given us a statement of the situation of the Bank of the United States, which I will just notice. That gentleman made this bank indebted to somebody, I don't know whom, in the sum of about ten millions dollars. The gentleman also informed us that he had been a bank director in his time ---of course, that he must understand the business. Presently, however, the worthy intelligent gentleman began to say some

thing about notes deposited in the bank for discount, to the amount of fifteen millions dollars. But these notes, he strenuously contended, were not due to the bank. So much knowledge must, I suppose, have resulted from having been a bank director. I think the gentleman afterwards admitted, that, if these notes were really due to the bank, it would then, indeed, possess the means of producing a general state of distress, if we should compel it suddenly to wind up its concerns. Exactly so, sir. So far the gentleman was correct.

But, with respect to the rest of the statement, I shall merely observe, that, if a gentleman could make a mistake at fifteen millions dollars in half a minute, how far would he probably travel out of the way in half an hour? Why, sir, he would be in danger of becoming one of the antipodes.

Another objection urged against the renewal of the present bank charter is, that a large part of the stockholders are subjects of Great Britain; and that, if we should happen to be at war with that nation, these capitalists would have it in their power to injure the best interests of this country. On the first impression, it struck me that this might possibly be the case; but, on more mature reflection, I cannot see how this could be done, even if those capitalists were so base and so regardless of their own interests, as to attempt any thing of the kind. They have no direct control over the concerns of the bank; it is managed by directors, who are citizens of the United States. If any one can, however, point out any effectual method which could be taken by these capitalists, and which it is even remotely probable would be taken, I will then admit that this may be a greater or less objection, not against the re-incorporation of the bank, but against the policy of suffering European capitalists to hold much property in the bank.

Another objection which has been urged is, that this bank is under the management of those who are, for the most part, opposed in political sentiment to the present administration. If I believed that those who manage the concerns of this bank could wield it as a political engine, as was formerly the case, I should be induced to vote against the bill entirely. But, sir, the fact is, this is not the case at present, nor do I conceive it can ever be the case again. So many State banks have been

created, that men of all political descriptions can now be accommodated at one bank or at another; so that the idea of bestowing bank favors, as a reward for political professions, has been long since abandoned. As the English mastiff has, therefore, lost his teeth, he can no longer bite those who are not of his household ---and knowing this, his fierceness has abated; he has become more civil to strangers, and more fit and willing to be made subservient to the wishes of all.

Sir, there is another string which is yet necessary to be touched, and I shall touch it but lightly; for it is a tender one. It is the distress and ruin which must ensue upon the vote that is about to be given, if that vote shall, as I believe it will, be against the re-incorporation of this bank, in some shape or other. From this distress, sir, probably all of us will be exempt; the storm will pass over us, and we shall only hear it at a distance; yet, the individuals on whom it shall most heavily fall, will not, on that account, feel it the less sensibly. When I speak of individuals, I mean to express myself emphatically. There are incorporated individuals, whose favorite dwellings may yet, by this vote, be shook to pieces over their heads. But, as far as any of these may have been instrumental in producing the present state of things, so far will their labors have obtained their just reward. I hope, however, that none of this description, in my own State, have had any agency in this business. But, sir, for those unincorporated individuals who are to be sacrificed by this measure, I feel some commiseration; because, I have some idea of the feelings that a ruined man must experience, particularly if he has a family to be supported by his exertions. It would be easy, because it would be natural, to draw a picture of this kind of distress. But this is not the only dark side which might be presented; its demoralizing effects ought also to be noticed. By too frequently, and, in this case, I may add, wantonly, deranging and prostrating the affairs of individuals, particularly of mercantile men, you naturally encourage in them, from mere motives of self-defence, principles which tend to render them a set of sharpers.

I have heretofore mentioned that there were, at the last session, nearly thirty of a majority for re-incorporating this

bank. And among those were two of my honorable colleagues, whom I now find on the other side of the question. It would now seem that there is, probably, a majority against it. How does this happen? I can account for it in part, but not wholly. The Legislatures of some States have undertaken to "instruct" or "request" their several delegations to vote according to their views of the subject. It is generally understood, I believe, sir, that those who may not think proper to listen to this monitory warning, are to be denounced, cast off, and thrown, not into a den of lions ---for those animals, though fierce, are somewhat noble in their nature--- but into a den with one or two ugly wild beasts, exotics, I believe, sir, who seem to be kept on account of the peculiar facility they possess of besmirching others with their own filth. But I would ask those who have thus undertaken to instruct and direct members here, how, in God's name, did they become invested with this controlling power? Were they elected to manage the affairs of this Government? As well might the State delegations to this Government assume to themselves the right of instructing and directing their several State Legislatures how they should act. No dictatorship in this free country, sir ! I, for one, protest against it. I hold myself responsible to my constituents only, for the vote I may give on any question; and that vote which my conscience tells me I ought to give, shall never be controlled by the imposing frowns of any man or set of men, whatever.

Sir, if this doctrine is to prevail, that the State delegations are to direct us how we must act, then we shall be in danger of becoming a fallen People! It will go to subvert the purposes for which this Government was established. It will be reducing us to a state which may even prove worse than the old confederation: for, even under that system of government, the State Legislatures did not attempt to dictate to Congress, but, on the contrary, Congress used to recommend measures for them to adopt.

My idea, sir, of the best method of getting along with our various concerns is, for each to mind their own business. I am not so arrogant as to have any wish to control the opinions or

the votes of others; and all that I require in return is, that the same measure of courtesy be dealt out to me.

Sir, I have thought proper, in order to vindicate my own sentiments and my own independence of feeling, to say thus much; I have little more to say, further than to repeat, that I am opposed to putting down this bank suddenly and unexpectedly; and in no way, whatever, unless it be done gradually, while another, less exceptionable, is rearing up to fill its place. Permit me to add, sir, that it requires so much less capacity to pull down than to build up, that I am afraid that some who never can distinguish themselves in the one way, may, in their love of fame, aim at an acquirement of some distinction in the other. I confess I have some little fears on this subject: for I am fully convinced, sir, that, if ever this Government shall be prostrated, which God forbid, the work will be accomplished, not by Romans, but by hands such as those under which Rome sunk and perished.

[MR. CRAWFORD](#).¹⁵ Mr. Speaker: A solemn impression of the duty which I owe to the public, and more particularly to that portion which I more immediately represent, can alone induce me, awkwardly circumstanced as I am from habit, to come forward on the present occasion; or support me under the embarrassment I feel, in presuming, for the first time, to deliver my sentiments on a question of great national importance, before a deliberate assembly. The subject having been already very amply examined, I shall confine my remarks to a very few of the most prominent principles connected with the bill. In so doing, I shall manifest my inclination rather than my ability to perform my duty. Indeed, after the very eloquent and conclusive argument of the gentleman from New York (Mr. Porter) on the constitutionality of the bill for the renewal of the charter of the Bank of the United States, any farther attempt to elucidate that part of the subject may appear equally unnecessary and impertinent. But as some very partial and indirect attempts have been made to set aside his argument, I request your indulgence, whilst I endeavor to investigate the positions, relied on by his

antagonists, as a means of palming this counterfeit again upon the nation for twenty years longer. If, in this discussion, I depart from the usual form of addressing you, by giving it somewhat of a colloquial form, I must rely upon the liberality of the House for indulging so unusual a claim upon their attention.

As a Representative of the People, then, I assume what has been called an inclusive power to establish a bank, as incidental to the power granted to lay and collect taxes, duties, imposts, and excises, by the constitution, in section 8th, article 1st. as incontrovertible. In granting this power it necessarily follows, that I possess all the means necessary to carry such power into effect. It is left to my discretion to employ the best means which offer for that purpose. This opinion is supported by article 17th of the same section, which empowers me to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department thereof. If, therefore, I consider a bank as necessary and proper to carry into effect the power to lay and collect taxes, it thence becomes a power growing out of constitutional authority, and it is my duty to carry it into execution.

Here I am interrupted by my constituent, who objects, that I have failed in the establishment of my premises, and in proving that a bank is the most suitable means to accomplish the end in view. That many other measures, more adequate, present themselves to his mind; and if taxes may be collected by safer and better means, banks become, agreeably to your own doctrine, unnecessary, and therefore unconstitutional. This objection I endeavor to surmount, by alleging that banks, by furnishing money, provide the means of purchasing the fruits of my industry; and thus, bringing more competitors into the market, I am enabled to dispose of my productions with greater certainty, and at a better price. Hence I am qualified to comply with the demands of Government, without seriously suffering from the pressure occasioned by such demand. Banks, therefore, affording more convenient

means of paying taxes, become necessary and proper to their collection, and are therefore constitutional.

Here again my constituent objects, that those who hold bank paper will not part with it without adequate value, in produce or other property. If it should so happen that there shall be little or no demand for such produce or property, the paper holder will either refuse to exchange his paper therefor, or reduce the price, in proportion to the unsaleable or perishable nature of the commodities offered. Nay, having, by his fictitious representative, nearly banished gold and silver from the market, he may feel disposed to take an undue advantage of this withdrawn competition; and thus farther diminish or destroy the capacity to comply with the public demands. Banks, therefore, afford only a problematical resource on which to rely for the payment of taxes. They are themselves the effect, and not the cause, of increased commercial prosperity. The consumption of, and demand for, the articles produced, furnish the true means of meeting all demands, by the equivalent given for such productions. Bank paper stands, by agreement, as the sign only of such equivalent, and not as the thing signified, and possessed of intrinsic value. The thing signified is therefore alone essential to the payment of taxes. This is the result of my labor, or of such articles as that labor has been exchanged for. Whilst there is a demand for the products of my labor, there will be no deficiency of means to pay taxes. If this demand cease, bank paper will not relieve my distress. Banks afford, therefore, only a conditional, and not an absolute means to favor the laying and collecting of taxes. They are not the best which offer as necessary and proper; and are, consequently, not constitutional. This argument may be strongly enforced, by tracing it through its various relations and tendencies. The constitution prohibits the State Legislatures from making any thing, save gold or silver, a legal tender. Hence, you may infer, that Congress possesses the power to establish a bank, and make its paper a legal tender: for, if they possess a power to establish a bank, as a means for the laying and collecting taxes, they must also possess the means of making such bank paper efficient. If they possess a power to make bank paper a

legal tender, to support the institution of a bank, they possess, likewise, the means of enforcing this power. The best means of enforcing this power is a standing army. Congress, therefore, according to your doctrine, possess the power, in the last resort, to compel us, at the point of the bayonet, to receive their bank paper as a legal tender, that they may give facility to the laying and collecting of taxes. Such are the dangerous conclusions to which the admission of such arbitrary doctrines necessarily leads ---doctrines to which, I trust, we will neither of us submit while life remains.

But I will now endeavor to show, that you possess no constitutional authority to enforce such tyrannical doctrines. In article 10th, amendments to the constitution, the doctrine is expressly laid down, that "the powers not delegated by the constitution to the United States, nor prohibited by it to the States, are reserved to the States, respectively, or to the People." But the power to erect banks is no where prohibited, by the constitution, to the States; it is therefore reserved by it to the States, respectively, or to the People. Congress, therefore, cannot usurp this power over the States, so explicitly and expressly reserved, without a flagrant violation of this (not an interpolation, as it has been jesuitically styled, but) integral part of the constitution. This opinion is confirmed by article 9th, amendments to the constitution, which declares, that the enumeration in the constitution of certain rights, shall not be construed to deny, or disparage others retained by the People. But the People have retained the right to establish banks: for all powers not delegated to the United States, or prohibited to the States, are reserved to the States, respectively, or to the People. The States and the People have exercised this right. Their power to do so has never been questioned. Every attempt to exercise this power, on the part of Congress, is an encroachment on this right, is a denial or disparagement thereof, and becomes thence a violation of the constitution. The States are prohibited from making any thing but gold or silver a legal tender. They possess an unquestionable right to erect banks, but they cannot make their paper a legal tender. If Congress possess the power to create a national bank, they are not prohibited

from making its paper a legal tender. This silence may be construed into a power of giving legality to their paper, by making it a tender. It may thus be exercised so as to construe their right into a denial or disparagement of the rights retained by the People.

If any doubts still remain, respecting your want of constitutional authority to create a national bank, I will proceed to satisfy you that you are clothed with no such dangerous power.

By the constitution you are merely the servants of the People, acting under a specific power of delegated trust. You are strictly limited to the powers therein delegated, or to such incidental powers as are necessary and proper to carry into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof; that is, you shall possess all the means necessary and proper, provided the powers vested in you by the constitution cannot be carried into effect without such means; or where your power to use such means is not doubtful or limited. In article 5th of the constitution we are instructed, that "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by three fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress, provided that no amendment which may be made, prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article, and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

If the States and the People were so extremely cautious and guarded in procuring any amendment to the constitution, will they calmly witness a sacrilegious infraction of its most sacred principles ? Will they permit you, by a constructive power, to create rights which deny or disparage those which

they have expressly reserved to themselves ? Have they not ordered you, whenever your powers are doubtful, defective, or limited, to apply to them for the remedy ? Have they not explicitly provided the manner in which such remedy shall be applied ? They have not permitted you to cut and carve for yourselves. A power is given to lay and collect taxes, duties, imposts, and excises. You shall have collectors and excise officers as incidental to their execution; you are to provide the safest deposits for them within your constitutional reach; you must preserve them under your perpetual control, by contract; you will be allowed stationary, store room, and house rent, with every other essential accommodation; but as we have reserved the power of creating banks to the States or to ourselves, you can claim no constitutional power over them, unless within the district over which we have given you exclusive legislation; and this power you are invested with, merely as Legislators for that district, and not in your capacity of Representatives of the States, respectively, or of the People.

But you conclude that the question of constitutionality is settled by precedent, acquiesced in by all the constituted authorities for twenty years. Such a conclusion facts will not justify. It is a most dangerous doctrine; it is an abandonment of the State sovereignties, who have for twenty years practically opposed and denied such doctrine. More than three-fourths of the States have, for a large portion of that period, been in the practice of establishing banks within their respective State sovereignties. If they had divested themselves of this sovereignty, by a delegation of such power to the United States, they would never have dared to exercise such a flagrant usurpation of power. Congress could not, without violating their oaths, have permitted this usurpation of their delegated authorities. Upon all other occasions they have been sufficiently jealous of the encroachments of State authorities. Can it be imagined that they would have witnessed such a daring and dangerous innovation, if such powers had been unequivocally delegated ? On a subject of such magnitude, no one can believe such improbable suppositions.

But it is all important to the peace, safety, and happiness of the union, that this subject be fully and fairly met; that it may be set for ever at rest. It is a subject on which we cannot suppose the constitution was intentionally silent; provided the power was intended to be given by the States. It is one in the exercise of which collision would most frequently occur. The power would therefore be expressly given, expressly reserved; or an agreement made to share it mutually. If any such agreement exists, it must, from the necessity of the case, be specific, express, and accurately defined and limited. No such compact exists in the constitution of the United States. Upon this subject there is therefore only one alternative. The power is either expressly given or reserved. It is of too imperious a nature to be sought for by implication, inclusion, or as an incidental means to carry any other power into effect. It has never been contended that any such power is expressly given by the constitution. If it had ever been parted with, it was all-important that it should have been parted with expressly. If it has been parted with, it can be shown. If it can be shown, it requires no casuistry to support it. Casuistry may involve and obscure ---it can but seldom enlighten its subject.

The sole power given to the United States, to coin money, regulate commerce, or make war, has never been questioned. Upon these subjects no State has ever shown a disposition to interfere, either with the powers, or the means necessary to carry these powers into effect. No similar delegation of power on the subject of banking can be shown. It is therefore expressly reserved. For if it has not been so reserved, the individual States have, most of them, been in the daily usurpation of a power which did not of right belong to them, which of right belonged to another, for nearly twenty years. But, if they have been in the exercise of a legitimate authority, then have the United States been exercising a dangerous and arbitrary usurpation of power, never delegated, expressly reserved, and practically denied and opposed by the States, during the whole of that period. Those who advocate the power of the United States over this subject must yield the sovereignty of the individual States. They must show this yielding of sovereignty, otherwise their power is a usurpation.

They have not shown any such delegation of sovereignty by the States. They never can shew it, in this constitutional instrument. It is therein expressly reserved: for, "the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People."

Obliged thus to abandon my constitutional position, I endeavored to rally my scattered forces, on the extensive field of expediency. I expatiated on the immense advantages resulting from a common circulating medium, the facilities afforded thereby to our fiscal and commercial relations, and the stimulus given to industry by a large foreign capital. My constituent suddenly arrested my progress, by observing, that it appeared idle to consume our time in castle-building, while we possessed neither the power nor the materials to erect them: for, when the constitutional authority is denied, no expediency can justify such an assumption of power. Such an assumption would, if acquiesced in, break down all the mounds raised by the People for their protection against the lawless encroachments of power. It would remove those landmarks, set up by them for their guide; and, whenever such encroachments would be attempted, exposed them a defenceless prey to their enemies.

I will, however, offer a few observations on the subject of expediency, and hope to shew you that, even on that ground, you are exposed to defeat. As to the fiscal operations of the country, they may be readily and safely conducted through less dangerous channels ---by a different modification of means, within constitutional reach. A large foreign capital is equally susceptible of being injuriously as of being beneficially employed. We had better remain unemployed, than use means to promote industry which may only place us more completely at the discretion of foreign Powers, by giving them the discretion of, and command over, our industry. It cannot be questioned, that the large foreign capital in our country has been highly instrumental in deluging our country with unnecessary and extravagant articles of foreign growth and manufacture. These foreign gewgaws have nearly destroyed our economical and simple habits, as an agricultural People,

and rendered us tributary to those foreign Powers, whose meretricious arts have inveigled us into such prodigal consumption of their commodities. The same funds have been employed to retard our progress in manufacturing for ourselves, lest we should become in reality independent, and disobedient to our task-masters; whose artful policy has nearly banished gold and silver, by the introduction of their fictitious capital, that they might thus disarm our energies if the expiring embers of personal liberty or national independence should again rekindle, and nerve our arms and animate our hearts against every insidious or perfidious encroachment upon the dearest rights of freemen.

Again I endeavored to arrest the glowing progress of my constituent, by directing his attention to the numerous memorials on our table; painting, in fascinating colors, the beneficial operations of this institution on our country, and its Government, and shading the background of the picture in sombre colors, with the ruin which a refusal to re-charter the bank of the United States must bring down on the devoted heads of our State banks, and our commercial cities, and which threatens to extend its desolations to every description of our citizens.

What, my friend, exclaimed my constituent, have these basilisks so fascinated you, by their legerdemain artifices, as to deprive you of the evidence of your senses ? Have you not, from the same description of people, numerous representations which boast a redundant capital ? So redundant as to induce them to vest their superfluity of wealth in speculations upon British manufactures, and other articles of British commerce, by anticipated remittances ? Is it unreasonable to trace these contradictory statements to the same impure source ? May not this redundant wealth consist of national or mercantile deposits, in the national bank, granted to such special friends as trade in British commodities, to favor their immense importations, and **destroy our infant manufactures**, that they may shackle our commerce in foreign fetters ? May not the fictitious capital of the same institution be employed to coerce American citizens ---the friends of American prosperity and independence--- into a renewal of

their favorite bank charter ? To this rational solution of memorials, so contradictory in their nature, I could offer no satisfactory reply ---I gave up the cause as hopeless, on American ground. As an American citizen, I can never yield my assent to a measure, so apparently pregnant with mischief to the rights and liberties of my constituents. I cannot thus betray the confidence reposed in me as a Representative of the American People, or violate the oath which I have taken to support the constitution of the United States.

Thursday, January 24, 1811.

The House resumed the consideration of the motion to postpone, indefinitely, the further consideration of the said bill.

MR. RHEA, (of Tennessee.) If, in the course of this debate, observations had not been made which appear to deprive the constitution of the United States of its innate virtue and honor, to destroy its beauty and simplicity, and to transform it into a deformed and distorted something, the debate on this bill to renew the charter of the Bank of the United States would have progressed to the end, undisturbed by any intervention of mine. If a train of reasoning be adopted, that tends to disturb this constitution, and to give to it a construction and interpretation that it will not bear, it then becomes a duty to state opinions respecting it, and to vindicate the true intent and express understanding thereof.

The constitution was solemnly and deliberately made, by wise men, who composed the convention, in the name of the People of the United States, and it was solemnly and deliberately ratified, by conventions of the States, respectively. It is simple, and easy to be understood, by anyone who, knowing the objects and ends for which it was ordained, will candidly examine it. A defence of the constitution, is a defence of the great and good men who made it what it is: for, if the constitution be dark, of obscure intent, and dubious meaning, it is not what it ought to have been. If it be dark, obscure, and dubious, it it be capable of inconsistent or contrary interpretation, the conventions of the ratifying States have not examined it with that careful attention which it required. Vain and empty surmises will evaporate, the characters of the men who made it being considered; the scrutinizing inquiries of the several ratifying conventions being contemplated, and by a candid examination, without prejudice of the constitution itself.

The constitution is a compact between the individual States and the United States. It is the great charter and bill of rights, delegated and given by the several States composing the Union, to the United States; it contains rights, powers, and principles, to be acted on by the United States, in order to

form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty; and we, "the People of the United States," have ordained and established it ---the constitution of the United States of America.

The rights, powers, and principles, enumerated in the constitution, are void of elasticity; they are firm, fixed, and unbending; they will not yield to discretion, on various assumed constructions; unchangeable in their nature, intent, and object, they are mutable only by the constitutional authorities. "The enumeration, in the constitution, of certain rights, shall not be construed to deny, or disparage others, retained by the People." ---Article eleventh of the amendments to the constitution. This article manifests, that all the rights delegated to the United States are enumerated in the constitution, and the enumerated rights shall not be construed to deny or disparage, to bring into disrepute, or diminish, other rights, retained by the People; and to that end it is absolutely necessary that the rights delegated be expressly and distinctly enumerated, otherwise it would be impossible to ascertain and distinguish the rights delegated to the United States, and the rights reserved to the People. "The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People." ---Article twelfth, amendments to the constitution. By this article, it is manifest that a power, not distinctly and expressly delegated to the United States, by the constitution, nor expressly and distinctly prohibited by it to the States, is reserved to the States, respectively, or to the People. These amendatory articles exclude, and prohibit an assumption of discretionary powers; of constructive powers; and of all powers and rights not expressly and distinctly enumerated in the constitution. By the word "power," or the word "right," is understood a fundamental principle of the constitution; the Congress cannot change, alter, vary, or destroy it; it assumes form when it is clothed with a legislative act of the Congress, and ordered to operate.

It may be proper to notice some observations, made in the course of this debate, which appeared to evidence a disposition to show that the Congress was vested with discretionary, or constructive powers, in matter of principle. It has been intimated that Congress had not power to disband an army, if the power was not assumed. If the constitution had been well considered, this and other similar intimations would have been omitted. An army is raised in consequence of a law, bottomed on the clause in the eighth section of the said article, which empowers Congress to raise and support armies. By the eighth section, the Congress is empowered to "make rules for the government and regulation of the land and naval forces." And the Congress is prohibited to make an appropriation of money to support an army, for a longer term than two years. The Congress, acting on these powers, will disband an army. A law may be made to expire by limitation in itself; if not, the Congress will make a law to repeal it. A law may be enacted to repeal the law whereby an army is raised, and then that army will be disbanded. The writ of *habeas corpus* is a prerogative writ of the United States, and was in use previous to the existence of the constitution; it is not prohibited by the constitution to the People; it is a duty of the judiciary to issue writs of *habeas corpus*, proper cause being shewn. The privilege of that writ does not depend on the clause in the ninth section of the first article of the constitution; that clause only contains an express condition or reservation, that the Congress shall not suspend the privilege of the writ of *habeas corpus*, except when, in cases of rebellion or invasion, the public safety may require it. Writs of *habeas corpus* being issued by the judiciary, a law suspending the privilege of that writ is a law regulating the proceedings of the judiciary, and is bottomed on the powers vested in the Congress, by force of the third article of the constitution. "No bill of attainder or *ex post facto* law shall be passed." This is an express prohibition, and requires no illustration. "No title of nobility shall be granted by the United States." This, also, is an express prohibition. The Congress hath power "to provide and maintain a navy," and to make rules for the government and regulation thereof; and, "to define and punish piracies and

felonies, committed on the high seas, and offences against the laws of nations;" and consequently, to make rules and regulations for the government of seamen of every description. It has been asked, by what delegated power does Congress make laws to prevent settlers on lands, the Indian title whereof hath not been extinguished? If the gentleman who made the inquiry had considered that land, the Indian title whereof was not extinguished, remained, by treaty, for the use of the Indian tribe, until the extinguishment of title, and that, a treaty being a supreme law of the land, the Congress is empowered to give it complete effect, the inquiry, probably, would not have been made.

It is urged, that a discretionary power is necessary to carry the enumerated powers into effect. If the discretionary power alluded to intends only a power to legislate on the delegated right or power, in a proper time and adequate manner, this is no more than a power to make laws to carry the delegated power into execution; but, if, by "discretionary power," is intended a power to assume, at discretion, a right, or principle, not enumerated in the constitution, under pretence of carrying a delegated power into execution, it is denied that the Congress hath that power: for, if a delegated power cannot be carried into execution without assuming, at discretion, a right not delegated, it will only prove that the constitution, in this respect, is deficient, and requires amendment, and will not prove that Congress, to effect a measure, may, at discretion, do an unconstitutional act.

It hath been argued, that the convention left Congress to adopt the means, as circumstances might admit, to carry the delegated powers into effect. What is intended by the word means, ought to have been explained in a constitutional, not a discretionary manner. To produce an effect of a general nature, the means ought to be commensurate and co-extensive. Water is a means to allay the thirst of all mankind, and there is no substitute. Ships and sea vessels are a means of carrying on commerce between nations separated by the ocean, and there is no substitute. The constitution vests Congress with power to regulate commerce with foreign nations; but no man will believe that, in virtue of that power

alone, the Congress would attempt, by a discretionary, or a constructive power, to adopt another principle; that is, to provide and maintain a navy to protect commerce.

The last clause of the eighth section is in the following words: "And to make all laws (that is, Congress shall have power to make all laws) which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the constitution in the Government of the United States, or in any department or officer thereof." This is the clause which is called the sweeping clause, pretending to vest all powers and authorities, although not expressly enumerated. It may be proper here to inquire what is intended by the words, "and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof," or what are the powers intended by the words "all other powers," inasmuch as it is probable that an opinion may have obtained, that, by these words are understood some hidden occult powers, not expressly enumerated in the constitution; that these powers are for the peculiar exercise of discretion, and that they are certain discretionary powers, to be discovered and assumed in extraordinary cases. If any such opinions are entertained, a careful examination of the constitution will dissipate them. Powers, other than those enumerated in the eighth section of the first article of the constitution; these powers might all be mentioned, but that is unnecessary; some of them will be noticed. "Congress have power to provide by law for taking a census of all the People of the United States, every ten years." Congress hath power to appoint, by law, a day to convene, other than the first Monday of December. To determine, by law, the time for choosing electors of President and Vice President of the United States.

Section 4th, of first article: "The times, places, and manner, of holding elections for Senators and Representatives, shall be prescribed in each State, by the Legislature thereof; but the Congress may, at any time, by law, make or alter such regulations, except as to the places of choosing Senators." "To make laws respecting the District of Columbia." "To declare the punishment of treason." Several of

those powers, denominated "other powers," are enumerated in the 9th and 10th sections of the 1st article of the constitution. Congress have power, by law, to establish courts, inferior to the supreme court. Congress have power to make all needful rules and regulations respecting the territory and other property of the United States. This enumeration may at present be sufficient to show what powers are intended by the words "other powers," and, also, to manifest, incontrovertibly, that the words "and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof," refer only to powers expressly and positively enumerated in the constitution, and by it vested in the Government of the United States; that, by these words are not understood, as some may have fondly imagined, any powers of discretion, fitted, when discovered, to fill chasms in the constitution of the United States; and that, by these words are not to be understood some concealed occult powers, waiting to be revealed by superior wisdom, to meet particular purposes, for instance, the creation of the Bank of the United States, or to be dragged out, by main force, to support unconstitutional pretensions. In the constitution are clearly expressed and enumerated, all the powers, rights, and principles, which have been vested in the Government of the United States, or in any department or officer thereof, by the individual States ratifying the constitution; nothing is left in obscurity, or difficulty, and [this constitution is not elastic](#) ---it will not bend to discretionary opinions.

I will now, said Mr. Rhea, with all due respect, approach the main question of inquiry, viz.: Is a power or right to create the Bank of the United States, expressly enumerated, to be vested, or intended to be vested in Congress, by the eighth section of the first article of the constitution? It may be previously observed, that if, in the ninth section of the first article, there had been even a negative expression or enumeration of power or right, inserted, empowering Congress to create the Bank of the United States, as if it had been stated in the words following, or words to the same effect: "Congress shall not create the Bank of the United States prior to the year one thousand eight hundred," there

might have been some reason to presume upon. But a negative expression of a power or right of that import, is not in the ninth section enumerated, nor in any other section of the constitution. The words in the eighth section of the first article of the constitution, which have caused such amazing solicitude and inquiring anxiety, to discover some obscure occult power or right to create the Bank of the United States, are the following: "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States," "and (as expressed in the last clause of the section) to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, (that is, the powers enumerated in the eighth section) and all other powers (that is, powers enumerated in other sections of the first article, and enumerated in other articles of the constitution) vested by this constitution in the Government of the United States, or in any department or officer thereof." Let these words be carefully and attentively examined, and all obscurity and difficulty will be removed; let them be connected in the manner they were intended to be connected, and there will be no reason to presume some unknown occult power, on which a pretension to create the Bank of the United States can exist. "Congress shall have power to lay and collect taxes." Let the words be connected, so that they shall read, "Congress shall have power to make all laws necessary and proper to lay and collect taxes, duties, imposts, and excises." Here, said Mr. Rhea, a question presents itself, that is to say, for what purpose shall Congress have power to make all laws which shall be necessary and proper to lay and collect taxes, duties, imposts, and excises? The first clause gives the answer: "To pay the debts, and provide for the common defence and general welfare of the United States." The expression of the delegated power or right will then, in plain and intelligible language, be, "Congress shall have power to make all laws which shall be necessary and proper to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States." This reading presents to the mind clear and distinct

ideas, removes doubtful interpretation, and establishes the truth contained in this section of the constitution. Let this reading be prefixed to every clause in the eighth section, the propriety thereof will be more apparent: for instance, Congress shall have power to make all laws which shall be necessary and proper to borrow money on the credit of the United States, to pay the debts and provide for the common defence and general welfare of the United States. And here let it be observed, that the words "for the common defence and general welfare of the United States," are words of limitation and restriction, and not of amplification of powers; these words direct to the end for which all taxes, duties, imposts, and excises, shall be laid and collected, and it follows, that taxes, duties, imposts, and excises, shall not be laid and collected for any purpose whatever, other than to pay the debts and provide for the common defence and general welfare of the United States.

The rights, powers, and principles, delegated by the individual States to the United States, and enumerated in the constitution, are substantial, not formal; and, being substance, are unchangeable in their nature, and must continue until altered by the constitutional authorities. An institution or principle, which has power to put bank paper in the place of gold and silver, is substantial, not formal; and never can be fixed as a form, by way of appendage to the business of collecting taxes, duties, imposts, or excises; or by way of appendage to aid commerce, or to borrow money; with as much propriety may it be said to aid in establishing a uniform rule of naturalization, or in making uniform laws on the subject of bankruptcy throughout the United States. A principle, or a right or power to create the Bank of the United States, is not inserted or enumerated among the rights and powers enumerated in the eighth section of the first article, nor in any other section of the constitution. Let it not, then, be presumed, that the convention who made the constitution, or the ratifying States, did, in [an occult and obscure manner](#), vest the Government of the United States with a right or power to create the Bank of the United States, in the manner and form belonging to the bank, the charter of which labors to

be renewed. The constitution contains no enumeration of a principle which can give any pretence for such presumption.

In the eighth section of the first article are enumerated rights and powers of minor importance than a right to establish the Bank of the United States. The right to establish uniform laws on the subject of bankruptcies throughout the United States, is of minor importance; that right is enumerated. Certainly, then, if the convention, or the ratifying States, had designed to vest Congress with the right to create the Bank of the United States, that right would have been expressly enumerated in the constitution. By virtue of the eighth section of the first article of the constitution, "Congress shall have power to make all laws which shall be necessary and proper to promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries." The insertion of that right or power affords sufficient reason to conclude, that, if the convention had intended to delegate to the Congress a power or right to create the Bank of the United States, the right or power to establish it would, certainly, have been expressly enumerated in the constitution. "The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others, retained by the People." ---Eleventh article of amendments to the constitution. Here, then, it may properly be observed, that the rights enumerated in the constitution are certain, that is, identically and distinctly enumerated rights; and that those rights shall not be, by discretion, construed to deny or disparage other rights reserved to the People.

A right or power to establish the Bank of the United States is not enumerated in the constitution; that right or power, therefore, is not denied to the People, and the certain rights enumerated in the constitution shall not be construed to deny that right to the People; that is, to the People in their individual State capacities. "The powers not delegated to the United States, by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People." ---Twelfth article of amendments to the constitution. The eighth section of the first article of the constitution

enumerates certain powers or rights delegated to the United States; the tenth section of the first article enumerates certain rights prohibited expressly, or conditionally, to the respective States; but, in the tenth section, or in any other section of the constitution, a right to create bank institutions is not prohibited, absolutely or conditionally, to the respective States or to the People; that right, therefore, is not delegated to the United States, but is reserved to the respective States or to the People. The States, respectively, have legislated on that power and right reserved, and have established bank institutions, and the United States have not interfered to prevent them.

In the eighth section of the first article of the constitution, a right is enumerated: "The Congress shall have power to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States." The power delegated to the Congress by virtue and force of this clause, is eminently great, and requires no illustration to prove that Congress hath power to create bank institutions in the District of Columbia.

In favor of a renewal of the charter of the Bank of the United States, it is argued, that the Congress, having power to lay and collect taxes, duties, imposts, and excises, hath also power to establish the Bank of the United States, as a mean to aid in collecting taxes, duties, imposts, and excises. It will not be said that the Bank of the United States is an essential necessary means in collecting taxes, duties, imposts, and excises: for, experience hath proved, that [taxes have been collected without the aid of that bank](#). But, if it be a means essentially necessary to collect taxes, it ought to be as extensive in operation as the law for collecting taxes; the nature of the bank institution proves that it cannot be co-extensive with the law for collecting taxes. Ten dollars being the lowest sum for which a bill of that bank is issued, it is manifest that bills of ten dollars, twenty dollars, fifty dollars and upwards, cannot aid generally in collecting and paying taxes; admitting the circulation of these bills to be co-extensive with the operation of the law. The tenth section of the act,

entitled An act to incorporate the subscribers to the Bank of the United States, provides, "that the bills or notes of the said corporation, originally made payable, or which shall have become payable on demand, in gold or silver coin, shall be receivable in all payments to the United States." But, notwithstanding the bills or notes of that corporation shall be receivable in all payments to the United States, as is provided for in that section, the act alluded to doth not provide that the bills or notes of that bank shall be receivable in all payments to citizens of the United States. The Bank of the United States, therefore, cannot be an adequate means to collect taxes from all the citizens of the United States; and, if not from all the citizens of the United States, the operation of the bank will be partial, and, consequently, injurious to the People.

By the tenth section of the law alluded to, the bills and notes of the corporation, established by that law, are made receivable in all payments to the United States. The bonds for payment of duties and imposts on foreign merchandise, imported into the United States, are generally deposited in the bank of that corporation, or in the respective branches thereof; whatever benefit or advantage, if any, arises by collection of those duties and imposts, accrues to that corporation; whatever gold and silver is paid on account of those duties and imposts, it remains at the disposition of the corporation, by reason that the corporation, by the law, are enabled to pay the amount of all the duties and imposts to the United States in bills and notes; these bills and notes afterwards come into the hands of the agents and public functionaries of the United States, and by them are paid to the citizens, and by this operation the bills and notes of the corporation obtain a circulation, to a certain extent, among the People, and, notwithstanding they may not be a legal tender in payment of debts by one citizen to another, they do, nevertheless, acquire a degree of currency, by being, in the first instance, made payable to the United States; by this operation, bottomed on the tenth section of the law, the corporation have the advantage of retaining the precious metals in their vaults until an opportunity offers to dispose of

them to the best advantage, or to export them to foreign countries.

Other observations might be made respecting the operation of the law incorporating the subscribers to the Bank of the United States; but, what already hath been observed may be sufficient to excite reflection on the machinery and influence of the mighty engine which the stockholders of the Bank of the United States have in their power, at any time, for any purpose, to set in motion. The instrumentality of this engine pervades the United States in all elections; it can raise up and put down; it may say, "I can raise you to a conspicuous and exalted station, if you obey my directions, and if you do not, I can put you down." If an institution of this magnitude is good for the People of the United States, if its influence is for their benefit, let it be demonstrated. Suppose the citizens would refuse to receive the bills and notes of that corporation in payment of debts, what would be the consequence? Why, let us not say ruin to all would follow; but certainly many would be injured.

It has been said, that the Bank of the United States aids commerce. If it does, it must be in a manner very unimportant to the People of the United States in general. The bank may be a convenience to all who have to pay, in the first instance, duties and imposts on merchandise imported into the United States, and that benefit to them operates to throw on all the other people of the United States a prodigious mass of paper in place of gold and silver; the evident effect of which is to substitute the bills and notes of that bank in place of the precious metals, and to give that bank the power of commanding the medium of trade in the United States.

The action of the bank is within the United States and territories thereof; the bills and notes thereof, as has been observed, are made receivable in all payments to the United States; but the assumed position, "that the bank aids commerce," not satisfied with what has been said, relative to the manner in which it aids commerce, returns, and requires further explanation, and it is proper to give that explanation. The annual reports of the Secretary of the Treasury show the prodigious amount of goods, wares, and merchandise, every

year imported into the United States from foreign countries, and particularly from Great Britain, and the dependencies and colonies thereof. Will any of the gentlemen who favor a renewal of the charter of the Bank of the United States, as it is called, inform this House, whether any part, and, if any, what part, or to what amount of the cost of the goods, wares, and merchandise, imported into the United States, is actually paid for, to the merchants in foreign countries, to whom the orders are sent, in bills and notes of that bank, such as are passing among the People of the United States? If such payments are made in such bills and notes, then, indeed, there will be reason to contend, that that bank aids commerce in its operations. If that information is not obtained, it will be taken for granted that no such payments are made in the bills or notes of that bank. The fact, then, appears to be, that the bills and notes of that bank do not pass out of the United States and territories thereof, to any foreign nation, in payment for the merchandise imported from that nation, and that no merchant of any foreign nation will receive bills and notes in payment for the merchandise ordered. The effect of all this is, that gold and silver is exported to foreign countries to pay for the goods, wares, and merchandise, imported, after deducting from the gross amount of the value thereof that part which may have been paid for in produce of the United States. The consequence of which is, that the precious metals are drained from the United States, and the paper of the bank circulates among the People, in the place of gold and silver. If that cause is suffered to continue to operate, a time may not be far distant when the paper of that bank will be the only visible medium of trade among the People; and a piece of gold or silver coin (notwithstanding the mint hath issued great quantities thereof) will be rare to be seen.

It is said, that the bank hath been aiding to agriculture. If it be so, it is strange that the agricultural part of the community have sent no petitions or memorials to Congress praying for a renewal of the bank charter. From whom do all the petitions and memorials come ? Not from agriculturists; not from all the merchants of the United States; but from

persons interested in the continuation of that bank charter, and a portion of the merchants.

It has been urged, that, if the bank charter is not renewed, ruin and destruction almost universally will fall on the People of the United States. These declarations, said Mr. Rhea, affect me not, because I place no confidence in them. An agricultural people cannot be ruined, until it shall please the Almighty to prohibit the return of the seasons in their regular time, until it shall please him to dry up the fountains of rain, and say that there shall be no more seed time nor harvest. But, if this bank is of such mighty force, that its fall will produce these direful effects, it is more prudent to meet them now, than to delay them to a future period. This nation is as well prepared to meet them now, as it will be hereafter.

It hath been said, and insisted on, that the bank hath aided the Government in its fiscal operations, and that the Government cannot well do, or do well, without it. Let it rather be said, that the Government hath aided the bank, raised it into existence, and afforded it every support, by placing in its hands the collection and deposition of the revenues of the Government for twenty years; by receiving from the bank its paper, in place of gold and silver, and thereby leaving gold and silver to be used to the benefit of the bank corporation. The bank may have been, to a certain extent, convenient in carrying on the fiscal operations of the Government, but it will not be said to be an institution profitable to the great mass of the People of the United States, neither will it be believed to be an institution aiding, in its action and influence, the republican institutions of the People of the United States.

The law creating the Bank of the United States, or, in other words, the bank called the Bank of the United States, is not bottomed on the constitution; it is inconsistent with, and repugnant to, the constitution. A constitutional Government requires no aid; can have no aid from an unconstitutional principle. The great men who made the constitution, and the ratifying States, have declared, that, as it is, they made and ratified it, and the People of the United States adopted it for the purposes therein enumerated and delegated; and if the

Government cannot exist in virtue and by force of the powers, rights, and principles, expressly enumerated and delegated in the constitution, without the aid of a principle violating the constitution, it is time that there should be another grand convention, with powers to make another constitution. But, in my opinion, said Mr. Rhea, the rights, powers, and principles, expressly enumerated and delegated in the constitution, are completely adequate, to all intents and purposes, for the existence of the Government, without the aid of any principle, inconsistent with, and repugnant to, the constitution.

Mr. EPPES¹⁶ said that he apprehended the few remarks he had to offer to the House, would not be considered as well timed, after the funeral oration had been pronounced over the expiring charter of the United States' Bank. He would trespass but a short time on the patience of the House, and confine his remarks to the policy of renewing the charter, viewed only as a national measure, he considered it unnecessary to say any thing on the constitutional question.

If ever the theory of persons who believe that political principles may be demonstrated with mathematical certainty, shall be realised, and a political Euclid be published, I would put, for the first proposition, these principles:

1. That all power not delegated, is reserved to the States, or to the People.
2. That the power to incorporate a bank is neither delegated, or essentially necessary for carrying into effect any delegated power.

For the demonstration, I would insert the speech of a gentleman from New York, [Mr. Porter] who has combined in a masterly manner on this subject, the purest principles, and most luminous elucidation. Passing over, therefore, this part of the question, I shall confine myself to such observations as will tend to show that the renewal of the charter is not necessary for the prosperity of agriculture and commerce, as

16 John Wayles Eppes (1773-1823); Virginia; Thomas Jefferson's nephew and son-in-law, Chairman of Ways and Means.

has been stated; that the [union of a moneyed institution with a Government](#), possessing the powers of war and peace, is dangerous to republican institutions; that the dissolution of the charter will produce no injury to the public, or to individuals; that the same principles which induced the republican party, in the year 1790, to oppose the incorporation of this bank, ought to prevent a renewal of the charter at the present time.

In examining the first of these questions, viz. the operation of the dissolution of the charter on agriculture and commerce, I will not trouble the House with any general observations on the subject of banks. Their tendency to facilitate commerce, so long as their circulation of paper rests on specie, or floating capital, cannot, perhaps, be denied, inasmuch as it is easier to circulate paper, which represents specie, or floating capital, than the specie or capital itself. Every paper circulation, however, not founded on specie or circulating capital, is dangerous to the community. A particular, specified object, say agriculture or commerce, can only employ a certain capital. An increase of circulating medium, above the sum necessary for a particular object, must produce one of two effects: either to depreciate the medium, be it specie or paper, or to drive it into new channels. These are plain, obvious principles, which no gentleman will, I presume, deny.

Let me ask, then, 1st. What amount of paper medium can with safety be employed in the commerce of the United States ? 2. What amount can be put into circulation by the present existing banks, independent of the United States' Bank?

The real basis of a safe paper circulation, so far as it respects commerce, is the productive labor of a community above its consumption. What a nation does not consume, it exports. No paper circulation, therefore, can with safety be extended beyond the amount of the exports of a nation. Indeed, it ought not to exceed in amount the domestic exports which constitute the only certain part of the productive labor of the community, so far as respects its commerce. The export of foreign articles depends so much on circumstances over which we have no control, that a paper currency which rested

for redemption on that, would be liable, whenever commerce was interrupted, to produce general ruin and bankruptcy.

The domestic exports of the United States may be considered in value as equal to \$40,000,000. The export of foreign articles, in the year 1807, was near \$60,000,000. This great export of foreign articles was produced by particular circumstances, which no longer exist. During favorable years, viz. 1803, 1804, 1805, the export of foreign and domestic articles averaged \$76,000,000; so that it would appear, taking the domestic and foreign exports as the real amount of capital which can be employed in commerce, an ability to circulate \$76millions of paper, is sufficient for all commercial purposes.

The Bank of the United States, with a capital of \$10,000,000, has put into circulation, in credit and notes, \$19,000,000; \$14,000,000 in accommodation credit, exclusive of mortgages and bonds, and constituting active circulating medium, and five millions in notes. As a moneyed institution, it is admitted that their affairs have been well managed. Other banks, therefore, may circulate to the same amount, in proportion to their capital.

The bank capital of the United States, exclusive of the United States' Bank, is \$50,000,000, five times the capital of the United States' Bank; of course, supposing them to manage their affairs as well, they can put into circulation, in credit and notes, five times the amount put into circulation by the United States' Bank; five times \$19,000,000 is \$95,000,000. This sum, sir, is fifty-five millions above our domestic exports; forty-five millions above our consumption; nineteen millions above our whole export, domestic and foreign, in favorable years; twenty-six millions above the present export of domestic and foreign articles.

Can any gentleman, on this statement, believe we want ability to circulate paper medium for commercial purposes ? Our export of foreign articles, from the peculiar situation of the world, has almost disappeared. Our merchants are more in want of a field to exercise their capital than of capital itself. It is a fact, which cannot be denied, that we have at present a surplus capital which cannot be employed in commerce, and

that the paper circulation is increasing in a ratio neither proportioned to our population, consumption, or wealth. I have confined my observations entirely to the view of a capital, such as is necessary for commerce. No gentleman has advocated the renewal of the charter for the purpose of creating a capital for internal improvement. This appears by general consent to have been considered as more properly within the sphere of the several State Legislatures.

At the time this charter was originally granted, the situation of the United States was very different from what it now is; but three banks existed, with a capital of less than three millions of dollars; our exports amounted to less than \$19,000,000. Our commerce languished for want of circulating medium; we are now in danger of suffering from a paper currency, resting on no solid basis, and liable, with a reverse of fortune, to recoil on ourselves. I cannot, therefore, consider the renewal of the charter, viewed only as a measure of general policy, necessary for the creating capital, for purposes of commerce.

But, sir, I object to the [union of a moneyed institution with a government](#), as dangerous to Republican principles. Next to frequent elections, the great security in every country, against arbitrary power, is the dependence of the Government on the great body of the People for supplies. Hence the objections to a revenue dependent on loans, indirect taxes, &c. Money has been aptly termed the sinews of war. It may, with equal propriety, be termed [the sinews of oppression and usurpation](#). The facility of commanding large sums by means of a moneyed capital, dependent on the Government, is calculated to destroy the dependence of the Government on the People.

If we look at the history of England, we shall find that their short period of liberty was while the king was dependent on the commons for supplies. The creation of a great moneyed capital in that country, under the control of the Government, has totally destroyed that valuable feature in the English constitution. It has created a body of men who contribute to the prodigality of the Government; who furnish the means and share in the spoils of the nation. The history

of the Bank of England and of its paper system is one which ought to warn the friends of freedom against the danger of a [union between a Government and paper capitalists](#). This species of capital, which scarcely knows a limit, is dangerous to the freedom of a country, without being nourished by the fostering hand of Government. Unite the two, give to a Government, by means of a paper system, a power to supply its wants without a recurrence to the People, and you unite [the most formidable engines of oppression](#), power and means. It is this system which has caused the British Government, after mortgaging from year to year its revenues to the bank, to accumulate a national debt to the enormous amount of six hundred and seventy millions of pounds sterling. The average quarterly advances of the Bank of England to the Government, in the year 1797, was four times the whole amount discounted for individuals. From these extraordinary advances, produced by the union of the Government and the bank, it must have failed in the year 1797, but for the interposition of Parliament.

On the 26th day of February, 1797, the cash and bullion in the bank amounted to £1,272,000 -- average notes in circulation, to £8,640,250 -- bills discounted, to £2,905,000 -- advances to Government, to £10,672,490. From the report of the committee appointed by Parliament in February, 1797, to examine into the state of the bank, it appeared that the debts of the bank amounted to £13,770,390 -- that its assets, exclusive of the permanent debt from the Government (and what these assets were does not appear) amounted to £17,597,298 ---leaving in favor of the bank £3,826,903. This sum of £17,597,298, consisting of debts and assets, was not sufficient to meet their cash debts, amounting to £13,770,390. At this time the permanent debt due from the Government to the bank amounted to £11,686,800 ---almost four times the whole sum left in the bank after payment of its debts. The funds of the bank being in the hands of the Government, the Government, unable to pay, kindly interposed to save the bank from ruin, and made their paper a tender. This, sir, was one of the blessings produced by a union between the Government and the bank.

But, sir, many gentlemen have exercised their ingenuity in portraying the ruin which must fall on individuals, and the injury which must be sustained by the public, from a dissolution of the charter. From the statement just laid on our table from the Treasury Department, it appears that the stockholders of the bank are in more danger than the community.

From that statement we find that the debts due by the bank, and payable on demand, amount to \$13,673,369.

To meet this debt, the bank has on hand, in cash, \$5,009,567.

Notes and debts due from other banks, \$1,313,350.

Making, in all, their cash funds amount to \$6,332,512.

Deducting this sum of \$6,332,512, which may be considered their cash fund, from the \$13,673,369, the amount of their debts, and it will be \$7,350,512, for the payment of which they must depend on their debtors, and make this payment out of the \$14,609,537, due from individuals.

So far, therefore, from pressing the community, it appears they must collect \$7,350,512, and apply, in addition to it, their whole cash funds, or fail in their engagements.

But, sir, I will state it in another way. According to the principles of banking, the profit is annually or quarterly divided; of course the company, on winding up its affairs, can only withdraw its capital, viz: \$10,000,000.

Of this capital, they have in hand, in cash, \$5,009,567.

In notes and debts due by other banks, \$1,313,857.

In a debt from the United States, \$2,750,000.

In houses, \$500,000.

In debts in suit, \$154,164.

In bonds and mortgages, \$221,000.

In stock of the United States, \$20,000.

Total, \$9,968,588.

This, sir, amounts very nearly to their stock, and if they reserve their cash on hand as part of that stock, and meet the payment of their debts with the debts due to them, they have nothing to draw from the community, which can produce the slightest pressure. They may find difficulty in collecting a sufficient sum to meet their own engagements, as, from the moment of the dissolution of their charter, their debts will stand on the same footing with the debts of any other

company winding up its affairs, and must be collected in the same manner.

Much stress, sir, has also been laid on the necessity of the bank for the management of the finances of the United States. We are told that a complete control is given, by the constitution, over the finances, and that a bank is necessary for their management. The term finance is not to be found in the constitution. The bank is not necessary for the collection of taxes, or imposts, or for paying the debts, to use the language of the constitution. It has never been used for the collection of taxes. For the collection of duties, it is used only in a limited way. We have upwards of eighty-five places for the collecting duties, and only nine branch banks. It is used for the payment of the interest of the debt only, in consequence of a treasury regulation.

Commissioners of loans, within the several States, are even at this time established by law for paying the interest on the debt. The bank, therefore, is not essential for this object. The great payments for the army and navy are not at present made at bank --paymasters and pursers discharge this duty. All payments on account of the civil list are made at bank, but the greater portion of these are at the seat of Government. A bank is, therefore, not essential for making these payments. Until new arrangements are made, temporary inconvenience may be sustained by the Government. The mere change of agents generally in extensive moneyed transactions, must produce inconvenience. The inconvenience, however, will be temporary, and does not deserve consideration in a case involving the Constitution.

I will close my remarks with a few observations tending to show that the same principles which induced the Republican party, in 1790, to oppose the incorporation of the bank, ought to prevent a renewal of the charter. In a free country there is nothing more important than a frequent recurrence to those fundamental principles which unite in one common bond, those who grant power, and those who exercise it. The peculiar organization of the Government of the United States combines, in a single charter, powers administered by men deriving their authority from two separate and distinct sources,

the People and the States. The weakness of the old confederation, which, although armed with general powers, was found unequal to giving a practical operation to those powers, produced the federal constitution. This charter, the offspring of compromise, was considered in the convention, by one party, as too weak to accomplish its objects -- by the other, as sufficiently strong to endanger the liberty of the citizen. These two principles were soon manifested in the administration of the present Federal Constitution. Those who thought it too strong gave to the Constitution a rigid construction, and opposed constructive powers. These were termed anti-federalists. Those who thought it too weak, were disposed to engraft vigor on it by construction, and contended for constructive powers. These were termed Federalists.

The eclat which attended the adoption of the constitution, threw the Government exclusively, for years, into the hands of the Federalists. The great popularity of General Washington, on whose brow grew, in full vigor, the laurels of the Revolution, balanced for a time these two contending parties. With the same manly firmness, as, during the Revolution, he stemmed the torrent, and attaching himself exclusively to what he deemed the interests of his country, he administered the constitution according to its true principles. He commenced his career as President, on the 30th of August, 1789. In 1791, the charter of the bank was granted. On this great measure, the two great parties were for the first time arrayed against each other. It was at that time considered a party question, inasmuch as it involved the very principles on which the parties divided, viz: "delegated" powers and "constructive" powers. Unfortunately for his country, General Washington, on this occasion, took side with the federalists.

The creation of a moneyed interest, connected with the Government, was a favorite measure of those who were willing to engraft energy on the Constitution, and was warmly opposed by the party, unwilling to add, by construction, the extraneous weight of a moneyed capital to a charter considered, on a fair construction, sufficiently energetic.

The defeat of General St. Clair took place in the November following the establishment of the bank, and the

subsequent disasters of the Indian war, by increasing the wants of the Government, drew more closely the ties of connexion between the federal party and the bank. Through all the periods of the federal administration, this moneyed capital was their shield and their sword. It extended their influence and secured the approbation of most of the large commercial cities in the Union. When this bank was established, but three banks existed in the United States, with a capital of \$2,100,000 dollars.

The creation of a bank with a capital of \$10,000,000, almost five times the capital of all the existing banks of the Union, under the patronage of the General Government, was calculated to produce --and did produce-- a subserviency on the part of the stockholders, to the views of their party. The influence of this powerful moneyed capital was long felt. Nothing but the multiplication of State banks, and the increase of capital from the peculiar and fortunate circumstances under which the United States were placed, could have emancipated us from the shackles imposed on us by a moneyed interest wielded by foreigners.

I rejoice that the period has arrived, when this privileged class must surrender its charter; when the moneyed capital of our country shall no longer be wielded as an engine of party; when the republican party shall have an opportunity of testing the truth of the principles for which they contended in the year 1790, and of giving, on the present, as on the former occasion, their support to the principle "That power not delegated is reserved to the States or to the People."

MR. STANLEY. Mr. Speaker: After the able discussion which this subject has already undergone, I should not have asked your attention, but for the observations of the gentleman from Virginia, (Mr. Eppes) who has last addressed you. That gentleman, with a view to justify such decision of the question as he desires, has advanced propositions which are in themselves so incorrect, and supported them by arguments so palpably unreasonable, that I shall trouble the House a short time in reply.

The gentleman tells us it is as true as any mathematical axiom, that a power not expressly granted by the constitution to the federal

Government, cannot be exercised by that Government; that, whenever a political Euclid shall be composed, this principle should be placed as first, in clearness and importance, and the speech of the gentleman from New York, (Mr. Porter) on the bill before us, should be added as an appendix or commentary, proving its truth. In terms, sir, the gentleman's proposition is true, but the gentleman has not avoided the error of those who have preceded him on that side of the question; he confounds the powers of the federal Government with the means of executing such powers; he does not distinguish between the objects of the federal compact and the means of ejecting these objects. And upon this hinge of error did the argument of the gentleman from New York turn. This confusion of terms, this indistinctness of perception, as I shall endeavor to show, has led gentlemen astray on this question. If, sir, the political errors of the statesmen of this day shall ever be collected into a volume, as the first, the most glaringly wrong, and flagrantly unjust, should be placed the axiom of the gentleman from Virginia, which cannot in substance be other than this: that no means of executing a power granted to the federal Government, can be employed by that Government, unless such means be found expressly pointed out in the constitution. And, sir, to shew how truth may be obscured, and error supported, by ingenuity ---my respect for the gentleman from New York forbids my saying by sophistry--- I will append as a commentary the speech of that gentleman on this question.

With respect to the constitutional right of Congress to incorporate a bank for the prosperous administration of its finances, the very able arguments already made, and, in my apprehension, very imperfectly met, require little to be said in its support. My view of this part of the subject shall therefore be brief, and I may be pardoned for offering it. To incorporate a company, in other words to grant to certain persons a legal or artificial capacity, distinct from their natural, is an act of sovereignty; a delegation of which, it is true, can only emanate from the sovereign power. If the Federal Government be not sovereign as to any of its objects, they cannot incorporate a company for the attainment of any of its objects. But, if, on the other hand, the Government is sovereign as to any object, the power to incorporate companies, the fit and necessary means for the attainment of that object, must regularly result from, and be appurtenant to, this sovereignty. This power is not left to inference; the constitution expressly declares that Congress shall have power to make all laws necessary and proper to carry into effect the powers delegated, and that such laws shall be the supreme law of the land.

The constitution, it is true, does not, in terms, give the power to incorporate a bank; that instrument details only the objects of the Government, and delegates certain general authorities to effectuate the ends for which it was formed. In every case it is silent as to the particular means to be employed, or the mode to be observed in the attainment of the object or end. Instead of attempting to specify, in any case, the means of executing a power, it is silent in that particular in every case, granting to Congress the general power I have just stated, to make all laws necessary

and proper to carry into effect the delegated powers. Among the general powers expressly granted, is this: "To lay and collect taxes, to borrow money, to pay the debts, and provide for the general welfare of the Union." What wisdom first suggested, the experience of twenty years has confirmed, that a bank is not only a fit, but the most useful means of collecting the revenue of the United States. It has been found the readiest and most certain resource from which to obtain, and on which to rely for loans to Government; and, through its aid, moneys for the public necessities have been safely, speedily, and without charge, placed at the command of Government in every part of the Union. The agency of this institution, thus continually employed, places its utility and expediency beyond question. I consider it, therefore, as "proper" because it is well adapted to its object; as "necessary," because, if not the only, it is certainly the best means that can be devised to obtain its ends. And, being both "necessary and proper" to carry into effect the power expressly granted to Congress, "to collect taxes, to borrow money, and pay the debts," it must be constitutional.

But, sir, the gentleman from New York says, the United States are not sovereign, and cannot exercise a right of sovereignty, because they depend on the will of the States for existence: for, said he, should the States neglect or refuse to elect Senators, or to make the laws necessary for electing representatives, the Federal Government would die of its own imbecility. This may be true; the Government may cease to exist; yet, while it does exist, there are powers which it alone can exercise without the control or interference of any other authority. To these purposes, assuredly, then, it must be supreme, or sovereign. For example: the Federal Government has power to lay and collect taxes, and to regulate commerce. Is there any power in this country (I speak of moral not physical power) which can prevent them laying such taxes, and making such regulations of commerce, as they think fit? The constitution of the United States is the act of "We, the People of the United States;" so are the State constitutions; both are derived from the same source; each is independent of the other, and only dependent on the sovereign will of the People, constitutionally expressed. The States have certain powers exclusively confided to them; they may prescribe the descents of estates, and regulate distribution of property and other objects of internal police; they are sovereign as to these objects; the Federal Government is as much so, as to the objects within the sphere of its jurisdiction.

Yet, Mr. Speaker, obvious, indeed indispensable, as is the inference and deduction of the right to incorporate a bank for the management of the financial concerns of the United States, from these premises, gentlemen say it is only an implied power; that no power can be used unless expressly granted in the constitution; and the exercise of implied powers is deprecated as unknown to the constitution, and abhorrent to republicanism, and dangerous to our liberties. Let me ask gentlemen, and I pray they will inform me, whether they do not daily act upon implied powers? If not, let them speak, in what part of the constitution do they find

power to build light houses? Where is the power which their President, doubtless with the feelings of a man, and the firmness of a magistrate, so freely exercises, of removing, at pleasure, from office, men who were appointed with the consent of the Senate? You have committees now sitting, who, under your authority, but without law, compel citizens to attend at their summons, without consulting their will or convenience; you have conferred on certain individuals, the sole privilege of trading with the Indian tribes. By what authority are all these, and many other acts, which have been mentioned in this debate, exercised? If I am answered at all, truth will dictate this reply: the power to do these acts is no where expressly granted in the constitution; the authority results from the powers granted, and are necessarily implied as the fit and necessary means of executing the powers which are expressly granted. Yes, sir, whether I am answered or not, the fact is manifest, that the implied powers of the Government are not only fairly deducible from the spirit and letter of the constitution, but are essential to the most familiar operations of Congress. And, sir, it is in proof, that gentlemen are in the daily habit of exercising, without scruple or reserve, those implied powers, which, when urged in support of the bank, they turn from with affected abhorrence, as if a single glance, like a look at Medusa's head, would turn them into stone! They have repeatedly acted under them, still grasp them with the love of power and the ardor of ambition, and will only quit their hold to that force which shall deprive them of the reins of empire.

The gentleman from Virginia deprecates a bank which shall be connected with the Government; he calls this a dangerous union of the sword and the purse; reminds us of the abuse, by the British Government, of the Bank of England in obtaining loans, and of the public debt of that kingdom. None of those objections apply to the Bank of the United States. [The charter of the present bank places the institution beyond the control of the Government.](#) It is bound to accommodate the Government with loans to a limited amount, when required; but this obligation on the bank, although its performance may, at times, chance to be unfavorable to the institution, is yet connected with no danger to the country, since the one cannot lend, until we, the Representatives of the People, have authorized the other to borrow. The Executive of the United States is said to bear the sword, but, sir, Congress holds the purse, and it has not been explained to us how the existence of a bank is to render one subservient to the other, or to convey the sword and purse into the same hand. I can, however, conceive a plan of a bank which would sharpen the sword of the Executive, and give a power to his arm that might be used to the ruin or degradation of our citizens. Adopt the plan which has been recommended, and which is to rise upon the ruins of the present institution; erect one great bank, whose branches shall embrace all the States, and whose capital shall swallow all the State banks; give to the administration the enormous patronage of the appointment of directors to this institution, and place the credit and business of every man connected, of necessity, with banks, at the mercy or pleasure of an Executive, or his minions; the

commercial and the enterprising must decide either to become flatterers and be favored, or to retain their independence and be ruined. It is this system which would give a dangerous ---a detestable power. Your administration, styling themselves republican, have professed to desire no patronage: I will take them at their word. My vote shall never increase their patronage, to multiply their dependents. The crown which they profess to put away, I will not force upon their brow.

As to the Bank of England and the British debt, I perceive not the bearing their connexion can have on the question before us. That the British Government have made too free use of the ability of the bank to lend, cannot expose us to like mischiefs, because our bank cannot lend, nor our administration borrow, but by the express authority of Congress. Of the British debt, I know its amount is enormous. Yet, sir, how, and for what purpose, has that debt been thus swollen? Perhaps the People of Great Britain owe to that debt the preservation and enjoyment of rights dearer to freemen than their purse.[§] It is, sir, at the cost of that debt that Great Britain maintains her existence and independence as a nation. She might have submitted without an effort, without expense; and, free from debt, have sunk under the chains which the tyrant of France, the enemy of the human race, has fastened upon all the kingdoms of continental Europe. Rather than see my country bow in subjection to that direst of despotisms against which Great Britain has struggled, I would, in the spirit of an American, cheerfully bear my share of a debt as large as that which has been the subject of remark.

The gentleman tells us that we have sufficient banking capital without that of the Bank of the United States; that the capital of the State banks are equal to the wants of the United States; and that, if this institution is continued, there will be danger of an excess of paper and the consequent mischiefs to the country. Sir, gentlemen need not feel alarm on this point: there is no more danger of a surplus capital being employed in banks, than of such surplus being employed in any other business the thing regulates itself. Bank notes may be emitted beyond the uses of the country, but you can no more force them into circulation beyond this necessity, than you can force purchases and sales of tobacco and flour beyond the consumption of a country. The commerce of every country requires a certain sum of circulating medium; the amount must be ascertained by experience, which alone can show how much it will absorb and employ. If you emit paper beyond this amount, it will of necessity return upon the banks. This discovery is not modern; it is as old as the science of banking; and of the errors of a bank no one is more unfavorable to them than the issues of paper beyond the necessity of the country: for, so long as they keep within proper limits, it is found that they may emit one and two-thirds or two dollars of paper for each dollar of specie in their vaults; but when

§ Moron ! A good portion of that debt was incurred as the cost of war against the independent-minded colonies that became the United States.

You alone are enough to prove what ignorant scum clamoured for an independent central bank.

their issues of paper exceed these limits, the excess continually returns, and instead of one dollar in specie meeting two of paper, a dollar in specie is required to redeem each dollar of the surplus emission of notes. With this restraint upon their issues, banks are kept in due check; and, sir, when the prudent and safe issues, viz. to the amount required by the country, do not yield employment for the capital, the business ceases to be profitable, the capital is directed to other objects, and the banking fund is kept at its just level. This, sir, is the necessary and just result of fair banking; such has been the operations of the Bank of the United States, of whose capital, debts, and issues, the Government have been weekly informed. It is from the State banks that danger is to be apprehended; of their capital, (I mean not their nominal but their specie capital) of their debts, and their resources, we are, and must remain, entirely ignorant; and we have seen that, some of these institutions dishonestly emitting paper beyond the sum authorized by their capital, and beyond the necessities of the country, their notes have returned upon them, they have been unprepared to pay, their paper has depreciated, and individuals have been defrauded to a vast amount. And such again may be the case, if we remove the check, the restraining influence, which the large and solid capital of the Bank of the United States, and its prudent direction, has enabled it to exercise over the State banks ---these "mushrooms," as the gentleman has called them, which, like Jonah's gourd, have sprung up in one night and withered in the next.

The gentleman informs us that our exports of domestic products amount only to forty-five millions of dollars; that the capital of the different banks in the United States, at the rate of issues of the United States' Bank, may emit ninety millions of dollars; and he infers that a paper medium beyond the amount of domestic exports cannot be necessary. This opinion, sir, needs an elucidation which the gentleman did not give it. Why the amount of produce purchased for exportation should form the measure of circulating medium, is, to say the least, not self evident. Nor can I conceive why, in calculating the medium necessary or useful for the concerns of the country, we should exclude from view the purchases for internal use as well as for external sale, or lose sight of the repeated use made of the same note or piece of metal, in its continued circulation. The circulating medium of a country, whether paper or specie, represents, because it commands, the articles we need and get in exchange for it. What the sum should be, my political arithmetic does not teach me, nor does the rule of the gentleman from Virginia. In my opinion, experience alone can shew it, as I have before said, viz. that amount which the commercial, agricultural, and manufacturing concerns of the country will require and can employ, to be ascertained from the amount of silver and gold in circulation, bank credit, and bank notes issued, and not returning upon the banks. It is, I admit, a fact, a proud fact, that the exports of our country have increased from eighteen to forty-five millions. New fields have been opened, produce increased, means of conveyance multiplied, and new markets sought and resorted to. Agriculture, commerce, and

manufactures, have advanced, as they necessarily must, hand in hand; and to the beneficial influence of banks, increasing the capital, encouraging enterprise, stimulating and rewarding the industry of the country, are indebted for much of this increase.

The testimony which the gentleman has borne to the correct management of the Bank of the United States, was to have been expected from his information and liberality. The fact previously stated and repeated by him, as a defect in arrangement, that the notes of the bank, and its branches, are not paid but at the office from which they issue, and at which they are made payable, is not ground of complaint. The bank and its branches have each but a portion of the capital. Of the branches, the largest portion (at New York) only \$1,800,000; and it is absurd to expect that either the branch with this capital, or the others, with less, should redeem at all times the notes emitted upon a capital of ten millions; the thing is impossible. From the opinion advanced by the gentleman, that the state of the bank should rather excite the fears of the institution for its own safety or solvency, than awaken the apprehensions of the community for the effects of its dissolution upon them, I beg leave to dissent. We have had in debate various statements of the affairs of the bank, drawn either from former reports or conjecture. The report of the Secretary of the Treasury, this day laid on our tables, shows the present state of the bank; to this I shall refer for facts.

There is due to the bank from individuals, upon notes discounted,
\$14,578,294.25.

Other banks owe them for notes and in account, 1,287,485.92.
The Government owe, including the late loan, funded debt, and treasury drafts,
2,807,046.49.
18,672,826.66.

They have, in gold and silver, 5,009,567.10.
And in real estate, 500,652.77.

Making a property to face the demands on them of \$24,183,046.53.
On the other hand, what do they owe? To the holders of their notes in
circulation, \$5,037, 25.23.

To the Government, for deposits, 1,929,999.60.
To other banks, due in account, 634,348.01.
To individuals, for deposits, 5,900,422.83.
8,464,770.44.

To balances on outstanding drafts, 171,473.17.
Making the total amount of their debts, \$13,673,368.83.

Thus, sir, with a property of twenty-four millions of dollars, they owe less than fourteen millions, leaving the stockholders the original stock of ten millions and a surplus of more than half a million to meet bad debts. But, were it otherwise ---were it possible, that, of the debts due them, ten millions should never be collected, the loss would affect the stockholders, whose original advance would be lost, but the interest of the community would not even then be affected; at least, not as creditors of the institution; because, even if ten millions, the capital stock, were by any means sunk, the bank would still be solvent; it would even then pay its debts, and,

consequently, must be perfectly safe as regards the community. Such, sir, is the state of the account on the side of the bank.

How stands the account with the debtors of the bank, or rather with the public? The bank can demand the debts due it, \$18,672,826.66. Admit the demands upon it are applied as sets off to their full amount, 13,673,368.83. The balance still to be raised by the country is \$4,999,457.83, within a trifle of five millions of dollars.

Whence is this sum to come ? Not from the vaults of the other banks; they do not possess it. It is stated, in the able speech of the representative of the city of Philadelphia, in the Legislature of Pennsylvania, upon the resolution respecting the bank, that the report of the state of all the banks of that State, recently made to the Legislature, shows that all the banks in Philadelphia, (excepting that of the United States) have, together, but a little more than one million of dollars in specie; those who have the best means of information, declare the specie in the banks of New York is not greater, and in those of other cities unquestionably less. The State banks then have not the money, and cannot produce it. Will the notes of these banks pay the debt? No, sir, because their notes will be returned upon them for payments which they cannot make. These banks know their own strength or weakness, and, that they dread this crisis, is manifest from the course they have already adopted; they have curtailed discounts, and commenced calling in their debts. The consequences you learn from the moans of your correspondents, and from the petitions which daily press your table; the want of money has produced a want of punctuality; confidence is destroyed; the life, the animating spark of business is, at it were, suspended, and deep distress is fast spreading over the commercial world. Sir, my deductions are supported by facts. They prove the solvency, indeed the strength, of the Bank of the United States is such as to merit the confidence of the People, which it enjoys, while the situation of the State banks, and the deficiency of the precious metals, gives a fatal assurance of the inability of the country to submit without great distress to the operation of having extracted from it the large debt due the bank.

The gentleman from Virginia says it is no argument in favor of a continuance of the bank that it is necessary for the management of the financial concerns of the United States; for that the word "finance" is not to be found in the constitution. Sir, were I called upon by one of the yeomanry of this country; one whose days had been spent at the plough, remote from courts, and without concern in affairs of state, to define to him what were the financial concerns of the United States, I should, as an explanation adapted to the simplest understanding, inform him, that the laying and collecting taxes, borrowing money, and paying the debts of the Union, were its financial concerns. And, as these powers are expressly granted to Congress, although the word "finances" may not be found in the constitution, Congress are thus required of necessity to provide for the management of the "financial concerns" of the United States.

Permit me now, sir, to notice objections urged against the bank from other quarters, and of a different nature ---objections not calculated,

probably not intended, to influence this House, but which may have an influence abroad. Gentlemen have objected to what they term the foreign influence in our affairs, from the portion of this bank held by foreigners; and the gentleman from Maryland [Mr. Wright] has alleged that aliens, traitors, and old tories, are entrusted with its direction; others, with him, have said that the bank and the funding system are twins of the same progenitor, Alexander Hamilton, and that the question of creating this bank was the ground on which the parties of the United States first divided.

The charter of the bank did not exclude foreigners from purchasing shares; because, at the period of its establishment, our country was without capital, and it was an object rather to invite foreign capital to the United States, than to repel it; their large funds and low rates of interest have enabled them to give more in the market than our citizens could afford to pay, and they have consequently purchased. But, if it be a sin to have sold stock to foreigners, lay it at the right door; and, when you revile the measure, do not forget it was one of Mr. Jefferson's administration, who sold to English merchants, in the year 1801, all the stock in the bank which the United States owned.

This charter denies to any stockholder, not a resident, of the United States, the right either of a vote in the choice of directors, or a seat at the board of directors. And, thus divested of any power to interfere in the concerns of the bank, it requires more than human penetration to discover, or more than ordinary jealousy to suspect, how foreigners can influence even the affairs of the bank, much less, through its agency, the concerns of the country.

This cry of foreign influence from the use of foreign capital is a modern bugbear. During our Revolutionary struggle, our soldiers were clothed and armed with funds borrowed in Europe; our nerves were hardened, our sinews stiffened, and our independence achieved, with the assistance of foreign capital. Yet the heroes and sages of that day suspected not any improper foreign influence; they were brave and wise, but not as cunning as our present statesmen who have made the discovery.

As to the aliens, traitors, and old tories, who are concerned in the direction of the bank, the gentleman is too general in his charge. So far as he will be particular, he can be met. He named but two persons as meriting his denunciation Evan Jones and Daniel Clark, both of New Orleans. I, sir, know not personally either of these gentlemen. Mr. Jones I understand to be a native of Pennsylvania, who, at the peace of 1763, when Great Britain acquired Florida, settled in that country, and has resided there and at New Orleans ever since; he is declared to be a man of high character for integrity and honor. Mr. Clark has had a seat as a delegate on this floor; though not a native of the United States, he is as much a citizen as any of the inhabitants of Louisiana, made so by treaty, and as much so as will be the representatives of the State of Orleans "that is to be," in the next Congress. Against his character nothing has been

alleged, other than that imputation which the People of the United States have fixed upon the character of every man who has been the friend or associate of Wilkinson and Burr. Let me not be understood as committing myself to the opinion of the guilt of these gentlemen. I was not of Burr's jury ---he may be guilty; nor am I of Wilkinson's committee ---he may be innocent: yet suspicion deeply stains his character; it will take much labor of the file to rub it off.

But, sir, let it be supposed that an individual who was unfriendly to our Revolution should have been chosen by those who are proprietors of the bank to a seat in its direction. Would the choice be either new or criminal? Sir, a person whose name is recorded in the proscription statute of a State, as an "old tory," was appointed, by Mr. Jefferson, a district judge of the United States. In other States, but particularly in New York and Pennsylvania, persons who bore arms against us, and adhered to our enemy in the Revolutionary war, have also been appointed, by a republican President, to offices of high trust. Why were these "old tories" thus honored and trusted? Because they possessed integrity and ability to qualify them for their stations. And why might not a tory be chosen a director of a bank, if his virtues and talents had gained him the confidence of the stockholders? The choice seems to me to be as pardonable in a stockholder as in a President; or, is it, sir, that the republican President has been converted into a political Pope, and has, alone, the power to pardon and absolve from political sins ?

Of the origin of the Bank of the United States, the honor is certainly due to the first Secretary of the Treasury. In justice to his memory, the fact ought frequently to be mentioned, and never to be forgotten. But, sir, the merit of obtaining the adoption of the plan is not entirely his. The original bill, in every stage, received the support of gentlemen of the republican party; among those who were its earliest supporters, one most distinguished for ability, the present Secretary of the Treasury, continues its advocate to the present hour.

In support of the claim of the bank for a renewal of its charter, and to the credit of Mr. Gallatin, I will here read extracts from his report to the Senate, March, 1809.

"The advantages derived by Government from the bank, are nearly of the same nature with those obtained by individuals who transact business with similar institutions, and may be reduced to the following heads:

1. *"Safe keeping of public moneys.* This applies not only to money in the Treasury, but that in the hands of collectors, and affords one of the best securities against delinquencies.

2. *"Transmission of public moneys,* from one quarter of the Union to another. This is done by the bank, at its own risk and expense.

3. *"Collection of the revenue.* The punctuality of payments introduced by the banking system, and the facilities offered by the bank, to importers indebted for revenue bonds, are amongst the causes which have

enabled the United States to collect, with so great facility and with so few losses, the large revenue derived from impost.

4. "Loans. The bank has been eminently useful in making the advances, which, under different circumstances, were necessary. At one time, Government owed it \$6,200,000, exclusively of six per cent. stock, original subscription; and a similar disposition to accommodate has been repeatedly evinced, whenever the aspect of public affairs has rendered it proper to ascertain whether new loans might, if wanted, be obtained."

The report then states, that, although the banks established under the authority of the States, might afford considerable assistance to the Government in its fiscal operations, there is none which can transmit moneys with the same facility or to the same extent; none which can afford so great security against any possible losses, or greater resources in relation to loans. "Nor is it eligible that the General Government should, in respect to its own operations, be entirely dependent on institutions over which it has no control whatever." He also notices the objection of foreigners holding stock; but this, he declares, "does not, at all events, appear sufficient to outweigh the manifest public advantages derived from a renewal of the charter."

Mr. Speaker, gentlemen may disregard, but they cannot despise, nor can they destroy, this high testimony, which, while it establishes the utility of the bank, bears honorable testimony to the upright and patriotic spirit in which its operations have been conducted. This testimonial outweighs all that the bickerings of interest, the suggestions of jealousy, or the apprehensions of the uninformed can assert against the institution. For myself, sir, had I no other knowledge of the subject, I should feel no hesitation, upon the question of constitutionality and necessity of a bank, which Hamilton recommended, Washington approved, and Gallatin, after twenty years' experience, continues to advocate. The shade which has been attempted to be cast upon the fame of Hamilton, as the "progenitor of the bank," must, when examined, like every other attack upon it, but add to its lustre. Sir, I shall not attempt to eulogise the name of that great man; were my feeble powers equal to the task, I should deem it unnecessary. Party rancor, which impotently followed him to the grave, cannot now obscure one ray of that sun of glory which shines upon the tomb of the illustrious dead.

As if satisfied, or fearful, that no argument against the bill could be urged which would plausibly destroy its claims to support, the question has been called a party question. To rally a party round its standard, to excite the pertinacity and awaken the severity of party feeling, it has been declared, that, upon the question of incorporating mis bank, in 1791, originated the division of parties, which have since existed in this nation. Until this time, sir, this discovery has not been made. I had understood a very different history of the origin of party. I have heard, I have read ---for my youth did not permit me to witness--- that, at the formation of our present constitution, many persons, with different views, were opposed to its formation and adoption, preferring that shadow of Union, in which the

States, as with a rope of sand, were attempted to be bound under the confederation, to the strength, firmness, and unity, in which we are knit by the Federal Constitution. The good sense and good fortune of our country prevailed; the constitution was adopted, and those who, as anti-federalists, had opposed the adoption of the constitution, were organized, with very few exceptions, under the name of republicans, in opposition and decided uniform hostility to the measures of the Federal Government.

The charter to the bank, thus, indeed, became, with some of its opponents, a question of party, although it received the support of others who were anti-federal. In this party opposition, it only met the fate of every other measure, however wise and salutary, originated and perfected at that period. Let us hope, sir, that the blindness and injustice of such rule of action, is not again to be revived. Let me now, sir, rapidly glance at the consequences which are to attend the rejection of this bill. The intercourse between the States, and the dealings of the citizens of a State with those of different parts of the same State, require a circulating medium, far above the quantity of gold and silver which exists among us. No man contends that the demands of commerce, or even the ordinary transactions of individuals, can, in the present scarcity of gold and silver, be carried on without the intervention of bank notes. Hitherto, sir, the notes issued in each State have answered some of the domestic uses; but, for the purpose of remitting to, or receiving payment from, other States, no reliance has ever been placed upon the notes of State banks. It has frequently happened, that notes have got into circulation, purporting to be issued by a bank which, in fact, never existed; and others, issued by banks which had failed. The difficulty of knowing the real from the spurious, and the solvent from the insolvent, has so far restrained the circulation of the notes of State banks within the limits of their own State, as to have prevented any late frauds and losses, except among the very uninformed part of the community. In these circumstances, the known ability of the Bank of the United States, the receipt of its paper in payment of debts to the United States, has given it a currency and credit equal to gold and silver, in every purpose of domestic or foreign use; and its frequency among us has so far familiarized all men of business with the notes, as, if not entirely to prevent frauds from counterfeits, at least, greatly to diminish the injury.

In destroying this bank, you are about, sir, to strike all this most valued paper medium out of existence; to dissolve an artificial capital of the Bank of the United States, of ten millions of dollars; and not merely this capital of the Bank of the United States, but, by withdrawing from the other banks the very large portion, if not the whole of their specie capital, with which they must part, to pay the Bank of the United States the debts daily increasing against them, by the receipt of their notes in discharge of individual debts to the Bank of the United States, you inevitably render the State banks less able to accommodate, and diminish, greatly, that portion of the circulating medium emitted by these banks.

Of the distress which this measure will occasion, I need say nothing; the evidence of its existence and magnitude surround you, and have been

already repeatedly pressed upon your attention. You are, in fact, to destroy all confidence in bank paper. Can my constituents know whether the bank note of New Hampshire or Georgia, which is offered them, is genuine or spurious? Can they know whether a bank is in credit or insolvent, of which they have never before heard? Yet, sir, as gold and silver is not to be had, and the United States' Bank notes will no longer exist, you reduce the People to this dilemma: either they must receive the notes of State banks, ignorant, as they must be, of their genuineness or credit, encounter the daily risk of being defrauded, or keep on hand their produce. In this state of uncertainty, bank must lose their credit; will cease to circulate; must soon depreciate; and a scene of speculation and embarrassment will ensue, not unlike those which have heretofore nearly ruined our country.

Mr. Speaker, the present is not a time for dangerous experiments upon the prosperity of our country. With foreign nations, our relations are more, than at any other period, perplexed. In my apprehension, the nations of Europe, with more than one of whom we have advanced in a warlike attitude, will have more forbearance and less temper than is usual with them, if they do not meet us with decided, not secret hostility. And in this time of danger from abroad, while, with a non-intercourse law in one hand, you fetter all external commerce, sink your revenue, and reduce the value of property; with the other, destroying the bank, deranging the finances of the Government, over turning private credit, destroying commercial confidence, you press, with the deadly weight of an incubus, upon the exertions of domestic industry and enterprise. The inevitable effect of these measures must be, to turn lose a torrent of overwhelming calamity, the extent of which you cannot estimate, and the force of which you cannot stay. The consequences are awful; the responsibility serious. Let gentlemen look to it.

MR. MCKEE. Mr. Speaker: Having once troubled the House on this subject, it is not without much regret that I ask the attention of gentlemen to a few more remarks, before the question is taken. The opposers of this bill have uniformly contended against the exercise of a power under the constitution, which is not expressly delegated to Congress by the letter of the constitution. This position cannot be maintained by the experience of what is past; nor can it be adhered to in future, in the management of the affairs of this Government. And I conjure gentlemen to pause, before they give a construction to the constitution which they themselves have, on other occasions, violated; and which they will be compelled again to violate, or desert the best and dearest interests of their country.

Sir, the territory of Louisiana has been purchased since the commencement of the republican administration; and this act constitutes one of their strongest titles to the fair fame with which they are surrounded. And yet I ask, where (according to the

construction contended for) is the power, under the constitution, which could authorize the mode of this acquisition? Will any gentleman point it out to me? For I confess I cannot perceive it. I know Congress are expressly empowered by the constitution to declare war; and the power to declare war includes the power to acquire territory by the successful result of that war. And hence it would seem to follow that the Government may, with propriety, attain the same end by treaty or purchase, which they could effect by force. But this power is certainly a constructive one, to be collected from the reason and not the letter of the constitution. And therefore, according to the doctrine inculcated, it cannot be used.

Congress have also laid a general embargo; and whence, I ask, is the power authorizing this act, derived? It certainly cannot be justified under the general power, delegated by the constitution to Congress, to regulate commerce: because a general embargo, during its continuance, puts an end to all commerce. And it is perfectly absurd to say that a general delegation of power to regulate commerce includes the power to suspend it altogether. But the constitution has delegated to Congress the power to provide for the general welfare and common defence; and a withdrawal of the property as well as the persons of our citizens from the ocean, in times of difficulty and danger, by means of a general embargo, thereby reserving to the country the resources as well as physical force of the People, unimpaired, is, in fact, providing for the general welfare and common defence. And hence results the power exercised by Congress of laying an embargo. But, sir, this is also a constructive power, not expressly delegated to Congress by the constitution; and therefore, by the doctrine contended for by the opposers of this bill, cannot be exercised.

Congress have built a house for the President of the United States, that would, in point of size and magnificence, beggar any thing to be found at St. James's or elsewhere. They have established post offices in all the States of the Union, and by law exempted the post masters from serving on juries as well as performing military duty; by this mean creating an influence in the interior of the States, without any express delegation of power authorizing the act; and therefore (according to the construction contended for on this occasion) unauthorized and unconstitutional. I might proceed to enumerate a long catalogue of cases, in which Congress have exercised powers under the constitution which were not expressly delegated, but drawn entirely from the reason, spirit, and essence of the instrument; and justified alone, in their fitness and efficacy to carry into effect some of the great class of powers

delegated to Congress by the constitution. The People of the United States have experienced the most happy consequences, arising solely from the exercise of those constructive powers, against which some gentlemen now declaim with so much apparent zeal; and which are certainly less tortured and far-fetched, than the construction for which those gentlemen so pertinaciously contend.

When we view the past, we find that all parties have uniformly given the same practical construction to the constitution. Washington, the great father of his country, Mr. Jefferson, Mr. Gallatin, and all the magistracy of the United States, including both Houses of Congress, have given, directly or indirectly, the same construction to the constitution; and with these illustrious examples and precedents before me, I cannot arrogate to myself the self-sufficiency to disregard or distrust them, and make out some new Utopian untried theory, sanctioned neither by reason, experience, nor policy; believing it to be more safe to pursue the old and beaten track, than to adopt untried expedients; particularly in a case of a doubtful nature. I admit that Congress ought not to look for the constitution in your statute book, or in the fugitive pages of your journal, but to the instrument itself. But, sir, where a construction has been given to this instrument by its great father, and where that construction has been ratified by the sovereign voice of the People, it should remain unchanged.

The gentleman from Pennsylvania, (Mr. Smilie) has endeavored to assimilate the power now attempted to be exercised to that exercised in the adoption of the odious alien and sedition laws, (as they have generally been called.) And if, sir, the gentleman had forgotten (as he seems to have done) the first article in the amendments to the constitution of the United States, then, indeed, his parable would have been an appropriate one, differing from the construction now contended for only in the signal circumstance, that the alien and sedition laws, in their practical operation, tended to abridge the liberty of the citizen, whilst the bank is a matter of policy alone.

But these alien and sedition laws were in direct hostility to the first article in the amendment to the constitution, which is in the following words: "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press." This prohibitory article shows the real difference between the two cases. Much sensibility has been manifested in relation to State rights, which, it is apprehended, will be prostrated by the resuscitation of this charter.

Sir, I am a friend to State rights; in the safe and inviolable preservation of which we have the surest guarantee for the perpetuity of this Government. But, sir, I ask if there are not extremes on this subject? And whilst we are guarding against Scylla, with care and solicitude, is there no danger of falling on Charybdis? Are not the power and influence of some of the States now almost paramount to the power and influence of the General Government? By your refusal to renew the charter of the United States' Bank, you considerably enhance this power in the hands of the great States. Your revenue is then to be collected and deposited in State banks. About one-third of it will be collected by the State of Pennsylvania, and will be deposited in her banks. And those banks are, as they relate to you, entirely foreign banks. You have no control whatsoever over them or any of them. But the State of Pennsylvania has a control over them; and consequently, Pennsylvania (if you destroy the charter) has in her fangs the purse of the nation! which, as the gentleman from Virginia, (Mr. Eppes) says, constitutes the sinews of war. Pennsylvania possesses within herself the physical force; a force that would be formidable to the whole United States, were it arrayed against them. And is it entirely without precedent, for the destinies of one State to be wielded by a single individual? If it is not, then the destinies of Pennsylvania, holding as she will, both the purse and the sword, might be wielded by some ambitious and assuming man. And if such an event should happen, which God forbid! where then are your political liberties? Precisely as safe and secure as if they were lodged in the hands of Napoleon the Great!

What constitutes the power and influence of a State? Certainly, money and physical force are the principal and most requisite ingredients; and by refusing to renew the charter, you throw into the hands of the great States, all the additional influence, arising from the resources of the nation being confided to their hands. And at the same time, you reduce to the condition of mere cyphers the States of North Carolina, Tennessee, Ohio, Kentucky, and all the New England States, except Massachusetts, by withdrawing entirely from their control and management, the public purse of the nation. I do not wish, Mr. Speaker, to be understood to entertain or insinuate any distrust whatsoever of the integrity or loyalty of the great and respectable State of Pennsylvania.

If, sir, the destinies of this nation are to become dependent on any one State in the Union, I have no predilection for any State; I have no unwillingness that Pennsylvania should be that State. But, sir, I protest, solemnly, against holding, by so feeble and precarious

a tenure, the great and inestimable privileges of self government. But, it is said we may console ourselves with the improbability of the great States making any improper use of the powers vested in their hands, by a refusal to renew this charter. Sir, when at peace with foreign nations; whilst harmony prevails at home, no immediate danger is to be apprehended; but when your political horizon is black with internal tumult, when you are menaced with external danger, and treason stalks abroad with gigantic strides, it is then that the colossal power of the great States becomes most eminently dangerous; it is then that it may be exercised to the utter humiliation of the little States, and the subversion of your federal government, by withholding from your hands the fiscal resources of the nation. To guard, when it may be practicable, against possible events so disastrous, becomes the imperious duty of every sound and honest politician.

There is a view of this question, which strikes me with great force, and to mention which was my principal motive in rising at this time. It has been repeatedly stated by the opposers of this bill, that the revenue could, with equal facility, be collected, through the agency of the State banks. Is it, then, their object to deposite the public money in State banks? I pause for a reply. The silence which pervades this hall, solemnly answers this question in the affirmative. It is, then, intended to deposite the revenue and resources of the United States of America, in the coffers of State banks! I say this is dangerous, unjust, and manifestly partial.

The president, directors, and company, of the United States' Bank, offer you \$1,500,000 to renew their charter; and in the bill, now before you, a privilege is reserved to the United States, of increasing this stock, by a contribution of \$5,000,000 on the part, and for the benefit of the United States. The profit arising from the sale of this stock, if you are disposed to sell it, would be more than \$1,000,000. Suppose, then, that the United States' Bank would be willing to give \$1,000,000 for the banking privilege alone, (which seems to me a very large allowance) the remaining one million two hundred and fifty thousand dollars are given to the United States, for the benefit arising to the bank, from the deposits of the public money. This sum will be increased to at least \$2,000,000, or perhaps \$3,000,000, or \$4,000,000, by that part of the bill before you, requiring the Bank of the United States to pay interest, at the rate of three per centum, on all sums which may remain in the hands of the bank longer than one year. This increased sum, arising out of the use of public money, is as much the *bona fide* property of the People of the United States, as any other portion of their

revenue. The proportion of this sum, to which my constituents (the people of Kentucky) are entitled, is about \$1,000,000. And it is now gravely proposed to wrest this sum from their hands, not for the public service, or public good, but for the express purpose of putting it into the pockets of the wealthy capitalists of Pennsylvania! the State bank stockholders of Massachusetts, Maryland, and Virginia! Will the People cheerfully acquiesce in this unjust prostitution of their honest earnings? If they do, I have mistaken their character.

When these are some of the consequences which are seen to result from a refusal to renew the charter of the United States' Bank, no man can be much at a loss to account for the instructions given by Virginia, Massachusetts, and Pennsylvania, to their Senators and Representatives in Congress. My friend (Mr. Johnson) has informed you, that a renewal of this charter would be granting an exclusive privilege to a few stockholders, and exclusive privileges are odious. If my worthy friend would only examine the bill now before you, he would find that it is not an exclusive privilege: for Congress have therein reserved to themselves the power to establish a new bank, whenever policy or prudence shall dictate its necessity or expediency; and this power, reserved by Congress, of establishing a new bank, will ensure to the United States a prudent and faithful management of the money, which it is proposed to confide to the direction of the president, directors, and company, of the United States' Bank; which it is acknowledged by the gentleman from Virginia, (Mr. Eppes) has hitherto been managed with great propriety.

The gentleman from Virginia, (Mr. Eppes) stated that this question was originally decided as a party question. In this the gentleman is certainly mistaken. It was not originally considered a party question. In order to satisfy my own mind on this subject, I have examined the journal of Congress, for the year 1791; which has been explained to me by the gentleman from North Carolina, (Mr. Macon) the oldest member in this House. And I find there were thirty-nine votes in favor of the bank originally; of which eleven were republican; and of the nineteen who voted against it, six were federal. This fact proves, without doubt, that this question was not decided by party principles. But why, I ask, are such unceasing efforts made to prove this a party question? Is the gentleman from Virginia, (Mr. Eppes) whose argument on this subject was directed principally to this point, fearful of a diminution of his customary weight in the scale of discussion, or of the insufficiency of his reasoning and argumentative powers, to draw his friends with him on this question? And is he, therefore, compelled to resort to this

argument, as a mean of whipping into the track those who are disposed to obey the honest convictions of their own judgments? If such be his object, I can only say for myself, that I am drawn along with that gentleman by the cords of reason, policy, and common sense, alone. And where these are too weak, I cannot be seduced from my own opinion, by the fascinating eloquence of any man, or any system of proscription or denunciation, however formidable it may be, either in plan or operation.

It has been fashionable for gentlemen on this floor, when speaking of party, to declare they were not party men. But, sir, I acknowledge I am a party man. And I have no hesitation in declaring, that I belong to the People's party. It is for the promotion of the happiness and prosperity of the People of Kentucky, in particular, and of the whole United States in general, that my services are rendered in this House. And if, on this, or any other occasion, the true interests of the People of Kentucky have been misunderstood by me, they will, as I know they can, elect, from among themselves, some individual, possessing more wisdom to perceive, and an inclination to pursue, the means best calculated to promote the interest, happiness, and increasing prosperity of my country. And should they adopt such a measure as salutary or expedient, their decision would receive my most sincere respect and acquiescence.

It is for the protection and promotion of the best interests of my country and of my constituents that I have again presented myself before this House, to give a last, and perhaps a feeble view of the impolicy and the deleterious consequences of the act, which I fear is now about to be done.

Before I sit down, permit me to advise my political friends, who vote with me on this occasion, (for I have no right to administer advice to others) to suffer the decisive vote now to be taken on this great and much agitated question. We have given this bill all the support constitutionally within our power; let the majority, if against us, now decide, and take on themselves that awful weight of responsibility which awaits their decision. And if the affections of the People should, on account of the frequent appeals made to their passions and prejudices, recede for a moment from us, it cannot but be, to us, a consolatory reflection, that we have discharged, with honesty and fidelity, our duty to our country. And that, when reason and reflection may have resumed, once more, their empire, we will again be surrounded with the confidence and gratitude of the People.

About five o'clock the question was taken, and carried in the affirmative--- yeas 65, nays 64.

Those who voted in the affirmative, are,

Messrs. Lemuel J. Alston, William Anderson, Ezekiel Bacon, David Bard, William T. Barry, Burwell Bassett, William W. Bibb, Adam Boyd, Robert Brown, William Butler, Joseph Calhoun, Langdon Cheves, Matthew Clay, James Cochran, William Crawford, Richard Cutts, John Dawson, Joseph Desha, John W. Eppes, Meshack Franklin, Barzillai Gannett, Gideon Gardner, Thomas Gholson, Peterson Goodwyn, Edwin Gray, James Holland, Richard M. Johnson, Walter Jones, Thomas Kenan, William Kennedy, John Love, Aaron Lyle, Nathaniel Macon, Alexander McKim, William McKinley, Samuel L. Mitchill, John Montgomery, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Gurdon S. Mumford, Thomas Newton, John Porter, Peter B. Porter, John Rea of Penn., John Rhea of Tennessee, Matthias Richards, Samuel Ringgold, John Roane, Ebenezer Sage, Lemuel Sawyer, Ebenezer Seaver, Adam Seybert, John Smilie, George Smith, Samuel Smith, Henry Southard, George M. Troup, Charles Turner, jr., Archibald Van Horn, Robert Weakley, Robert Whitehill, Richard Winn, Robert Witherspoon, and Robert Wright.

Those who voted in the negative, are,

Messrs. Joseph Allen, Willis Alston, jun., Abijah Bigelow, Daniel Blaisdell, James Breckenridge, John Campbell, John C. Chamberlain, Wm. Chamberlin, Epaphroditus Champion, Martin Chittenden, John Davenport, jun., William Ely, James Emott, William Findley, Jonathan Fisk, Barent Gardenier, David S. Garland, Charles Goldsborough, Thomas R. Gold, William Hale, Nathaniel A. Haven, Daniel Heister, William Helms, Jonathan H. Hubbard, Jacob Hufty, Ebenezer Huntington, Richard Jackson, jun., Robert Jenkins, Philip B. Key, Herman Knickerbacker, Joseph Lewis, jun., Robert Le Roy Livingston, Vincent Matthews, Archibald McBryde, Samuel McKee, Pleasant M. Miller, William Milnor, Jonathan O. Moseley, Thomas Newbold, John Nicholson, Joseph Pearson, Benjamin Pickman, jun., Timothy Pitkin, jun., Elisha R. Potter, Josiah Quincy, John Randolph, Thomas Sammons, John A. Scudder, Samuel Shaw, Daniel Sheffey, Dennis Smelt, John Smith, Richard Stanford, John Stanley, James Stephenson, Lewis B. Sturges, Jacob Swoope, Samuel Taggart, Benjamin Tallmadge, John Thompson, Nicholas Van Dyke, Killian K. Van Rensselaer, Laban Wheaton, and James Wilson.

[There were absent on this vote eleven members, viz: Messrs. Burwell, Cobb, Ross, Crist, Livermoore, Tracy, and Cook, Lyon, Whitman, Clopton, Root. Of whom Messrs. Harwell, Crist, Cook, Livermoore, Lyon, Ross, and Whitman, were absent from the city, and Messrs. Clopton, Cobb, Root, and Tracy, were absent from indisposition and other causes.]

And then the House adjourned until to-morrow morning eleven o'clock.

Saturday, January 26, 1811.

Mr. Bassett presented a resolution of the Legislature of Virginia, instructing their Senators and Representatives in Congress of the United States "to use their best efforts in opposing, by every means in their power, the renewal of the charter of the Bank of the United States;" which was read, and ordered to lie on the table.

"The general Assembly of Virginia view with the most serious concern the late attempts which have been made to obtain from Congress a renewal of the charter incorporating the Bank of the United States:

"This Assembly are deeply impressed with the conviction that the original grant of that charter was unconstitutional; that Congress have no power whatever to renew it; and that the exercise of such power would be not only unconstitutional, but a dangerous encroachment on the sovereignty of the States; Therefore,

"Resolved, That the Senators of this State in the Congress of the United States, be instructed, and our Representatives most earnestly requested, in the execution of their duties, as faithful Representatives of their country, to use their best efforts in opposing, by every means in their power, the renewal of the charter of the Bank of the United States."

Proceedings on the Memorial of the Stockholders of the Bank
for a Renewal of the Charter of 1791.

IN SENATE.

11th Congress, 3d Session.

December 18, 1810.

Mr. Leib presented the petition of the Bank of the United States, praying a renewal of their charter, which was referred to a select committee, consisting of Messrs. Crawford, Leib, Lloyd, Pope, and Anderson.

February 5, 1811.

Mr. Crawford reported a bill to amend, and continue in force, an act, entitled "An act to incorporate the subscribers to the Bank of the United States," which was read the first time; and also communicated a letter from the chairman of the committee to the Secretary of the Treasury, together with the answer of the Secretary thereto. Mr. Crawford's note to the Secretary of the Treasury, and his answer thereto, are as follows:

Senate Chamber. January 29, 1811.

Sir: The Committee of the Senate, to whom has been referred the memorial of the President and Directors of the Bank of the United States, praying for a renewal of their charter, have directed me to request you to state to the committee, whether, in your opinion, the renewal of the said charter will not greatly facilitate the collection of the revenue, and promote the public welfare. In complying with this request, it is expected that you will furnish the committee with the facts and reasoning upon which your opinion has been formed, together with such other information upon the subject, as may be in your possession. I am, sir, respectfully, your obedient and very humble servant,

William H. Crawford.

The Hon. Albert Gallatin.

Treasury Department, January 30, 1811.

Sir: Having already, in a report to the Senate, of 2d March, 1809, expressed my opinion in favor of a renewal of the charter of the Bank of the United States, an opinion which

remains unchanged, I can only add a few explanatory remarks in answer to the inquiries of the committee, as stated in your letter of yesterday.

The banking system is now firmly established; and, in its ramifications, extends to every part of the United States. Under that system, the assistance of banks appears to me necessary for the punctual collection of the revenue, and for the safe keeping and transmission of public moneys. That the punctuality of payments is principally due to banks, is a fact generally acknowledged. It is, to a certain degree, enforced by the refusal of credit at the custom house, so long as a former revenue bond, actually due, remains unpaid. But I think, nevertheless, that, in order to ensure that precision in the collection, on which depends a corresponding discharge of the public engagements, it would, if no use was made of banks, be found necessary to abolish, altogether, the credit now given on the payment of duties ---a measure which would affect the commercial capital, and fall heavily on the consumers. That the public moneys are safer, by being weekly deposited in banks, instead of accumulating in the hands of collectors, is self-evident. And their transmission, whenever this may be wanted, for the purpose of making payments in other places than those of collection, cannot, with any convenience, be effected, on a large scale, in an extensive country, except through the medium of banks, or of persons acting as bankers.

The question, therefore, is, whether a bank, incorporated by the United States, or a number of banks, incorporated by the several States, be most convenient for those purposes.

State banks may be used, and must, in case of a non-renewal of the charter, be used by the treasury. Preparatory arrangements have already been made to that effect; and it is believed that the ordinary business will be transacted, through their medium, with less convenience, and, in some respects, perhaps with less safety, than at present, but without any insuperable difficulty. The difference, with respect to safety, results from the organization of the Bank of the United States, by which it is responsible for the money deposited in any of its branches, whilst each of the State banks, which may be

employed, will be responsible only for the sums in its own hands. Thus, the Bank of the United States is now answerable for the moneys collected at New Orleans, and deposited there, in its branches ---a security which will be lost under a different arrangement. Nor will the United States have any other control over the manner in which the business of the banks may be conducted, than what may result from the power of withdrawing the public deposits, and they will lose that which a charter, or a dependence on the General Government for a charter, now gives over the Bank of the United States. The facility of obtaining such accommodations as may, at times, be wanted, will, for the same reason, be lessened, and the national power will, to that extent, be impaired. It may be added, that, even for the ordinary business of receiving and transmitting public moneys, the use of a State bank may be forbidden by the State; and that loans to the United States are, by many of the charters, forbidden, without a special permission from the State.

As it is not perceived, on the other hand, that a single advantage will accrue to the public from the change, no reason presents itself, on the ground of expediency, why an untried system should be substituted to one under which the treasury business has so long been conducted with perfect security to the United States, and great convenience, not only to the officers, but also to all those who have had payments of a public nature to make or to receive.

It does not seem necessary to advert to the particular objections made against the present charter, as these may be easily obviated by proper alterations. What has been called a National Bank, or, in other words, a new Bank of the United States, instead of the existing one, may be obtained by such alterations. The capital may be extended, and more equally distributed; new stockholders may be substituted to the foreigners, as had been suggested in the report of 3d March, 1809; and any other modifications which may be thought expedient, may be introduced, without interrupting the operations of the institution now in force, and without disturbing all the commercial concerns of the country.

If, indeed, the Bank of the United States could be removed without affecting either its numerous debtors, the other moneyed institutions, or the circulation of the country, the ordinary fiscal operations of Government would not be materially deranged, and might be carried on by means of another general bank, or of State banks. But the transition will be attended with much individual, and probably with no inconsiderable public injury. It is impossible that an institution, which circulates thirteen millions of dollars, and to whom the merchants owe fourteen, should terminate its operations, particularly in the present unfavorable state of the American commerce, and after the great losses lately experienced abroad, without giving a serious shock to commercial banking, and national credit. It is not intended to overrate the extent of an evil which there are no certain data to appreciate. And, without expatiating on the fatal and unavoidable effects on individuals; without dwelling on the inconvenience of repaying, at this time, to Europe, a capital of seven millions; and, without adverting to other possible dangers, of a more general nature, it appears sufficient to state, that the same body of men who owe fourteen millions of dollars to the bank, owe, also, ten or twelve to the United States, on which the receipts into the treasury, for this year, altogether depend; and that, exclusively of absolute failures, it is improbable that both debts can be punctually paid at the same time. Nor must it be forgotten that the approaching non-importation will considerably lessen the efficiency of the provision, by which subsequent credits are refused to importers who have not discharged former revenue bonds. Upon the whole, a perfect conviction is felt that, in the critical situation of the country, new evils ought not to be superadded, and a perilous experiment be attempted, unless required by an imperious necessity.

In these hasty remarks, I have not adverted to the question of constitutionality, which is not a subject of discussion for the Secretary of the Treasury. Permit me, however, for my own sake, simply to state, that the bank charter having, for a number of years, been acted upon, or acquiesced in, as if constitutional, by all the constituted

authorities of the nation, and thinking, myself, the use of the banks to be at present necessary for the exercise of the legitimate powers of the General Government; the continuation of a bank of the United States has not, in the view which I have been able to take of the subject, appeared to me to be unconstitutional.

I have the honor to be, respectfully, sir, your obedient servant,

Albert Gallatin.

Hon. William H. Crawford, *Chairman in Senate*.

Monday, February 11, 1811.

The Senate proceeded to consider the bill reported on the 5th instant, and having amended the same, a motion was made by Mr. Anderson to [strike out the first section of the bill](#).

On motion of Mr. Clay, the Yeas and Nays were ordered.

On motion of Mr. Brent, the further consideration of the bill was postponed till to-morrow.

MR. ANDERSON said, that, having been a member of the committee who reported the bill before the Senate, and not feeling himself at liberty to oppose the introduction of the report, yet, thinking it might be advisable to try the principle before they proceeded to discuss the details, he should move to strike out the first section of the bill. He would barely observe, that, was this not a question which was generally understood, on which not only every member of this House, but every citizen of the United States, had made up his mind, he should feel himself bound to offer reasons in support of the motion; but, inasmuch as it was a question which every gentleman had doubtless decided in his own mind, he felt unwilling to take up any more of the attention of the Senate, especially so late in the session, when there was so much business of importance before them, which required to be acted on.

MR. CRAWFORD¹⁷ said, this was a way of disposing of business which struck him as somewhat astonishing. A bill was proposed to the Senate to continue in operation an institution of twenty years' standing, the good effects of which had been universally experienced, whose influence on the public prosperity was admitted by all; and, without assigning any reason why it should not be continued, they were told that the public sentiment had decided the question, and every gentleman must have made up his mind. He appealed to the gentleman who made the motion, whether this was a fair and magnanimous mode of procedure. How was it possible for the friends of this bill to meet objections never made? To foresee the grounds on which gentlemen would have made up their minds? Surely, when a question of magnitude was to be decided, it ought to be expected that some reasons should be offered why the bill should be rejected. Mr. Crawford said he hoped, if the honorable gentleman from Tennessee chose to veil himself and argument from discussion, on the ground that he had made up his mind, that some gentleman would condescend to give reasons in favor of the motion.

MR. SMITH of Maryland said, there was certainly nothing novel in the course taken by the gentleman from Tennessee. The gentleman from Georgia could not be ignorant that some of the State Legislatures had taken the subject up. It therefore became the duty, with all respect to his friend from Georgia, of the introducer of the bill, to give some reason to induce the Senate to give their votes for a renewal of the charter.

Mr. Anderson said, that he deemed it strictly proper and parliamentary to make the motion which he had offered to the House. He deemed it incumbent on those who meant to support this bill, to assign the reasons why the section should not be struck out. To his mind, Mr. Anderson said, this system was infinitely more injurious than beneficial; It created a kind of fictitious wealth in the community; destroyed, in a degree,

17 William Harris Crawford (1772-1834) Georgia; studied law, admitted to the bar; future Secretary of the Treasury (1816-1825); a life-time supporter of the independent central bank concept.

the firm principles of our political institutions; and, if we went on with it for twenty years more, we should be at least fifty years older, he would not say in corruption, but in the want of the strict political virtue, which, if the bank had never existed, we might have maintained. This opinion was a sufficient objection, without saying any thing of the unconstitutionality of the thing, which, to him, had always been a paramount objection.

Mr. Crawford said, that the gentlemen from Tennessee and Maryland had misconceived what he had said. He had not complained that the motion was made; nothing like it. He knew that such a course was sometimes pursued. But, it was the first time he ever knew such a motion to be made, without a discussion of the details, without a detailed statement of the reasons for opposing such and such provisions, he must be permitted to state, that such a course was not usual in this, or any other body, as that a chairman should be called upon to state reasons which induced a committee to report any provision, when a motion was made which went to put an end to any discussion of the detail. Gentlemen assumed the affirmative side of the question; they were about to defeat the bill; ought they not to assign their reasons? What a situation am I placed in, said Mr. Crawford. How is it possible I can foresee all the objections to the bill? And, if, perchance I should foresee them, and defeat them, will not gentlemen say these are not the reasons which influenced their votes? It is like pursuing a *will o' the wisp*; you can never arrive at the true object of pursuit. I should humbly hope, sir, that some gentleman, who wishes to put an end to this bill, would assign the reasons on which he determined to give his vote.

Mr. Smith of Maryland said, he had always thought it was the duty of a committee to inform the Senate of the reasons which induced them to report a bill. I was not on the committee, said he. There were but five on it; and, consequently, there are twenty-nine of us who cannot tell what induced that gentleman to report the bill which has produced this agitation among us, and which some of the States have

declared hostile to the constitution. I was so certain that the gentleman would give his views of the subject, that I did not come prepared to enter into the question. I did expect to hear something from that gentleman, which I, or some other gentleman, would have thought it our duty to give an answer to.

Mr. Crawford said that he should proceed, though reluctantly, to explain the reasons of the committee for reporting the bill which is now under consideration. After the most minute examination of the constitution, the majority of that committee were decidedly of opinion, that the Congress of the United States were clearly invested with power to pass such a bill. The object of the constitution was two-fold: 1st, the delegation of certain general powers of a national nature, to the Government of the United States; and 2d, the limitation or restriction of the State sovereignties. Upon the most thorough examination of this instrument, I am induced to believe that many of the various constructions given to it are the result of a belief that it is absolutely perfect. It has become so extremely fashionable to eulogise this constitution, whether the object of the eulogist is the extension or contraction of the powers of the Government, that, whenever its eulogium is pronounced, I feel an involuntary apprehension of mischief. Upon the faith of this imputed perfection, it has been declared to be inconsistent with the entire spirit and character of this instrument, to suppose that, after it has given a general power, it should afterwards delegate a specific power fairly comprehended within the general power. A rational analysis of the constitution will refute, in the most demonstrative manner, this idea of its perfection. This analysis may excite unpleasant sensations; it may assail honest prejudices: for there can be no doubt that honest prejudices frequently exist, and are many times perfectly innocent. But, when these prejudices tend to destroy even the object of their affection, it is essentially necessary that they should be eradicated. In the present case, if there be any who, under the conviction that the constitution is perfect, are disposed to give it a construction that will render it wholly imbecile, the public

welfare requires that the veil should be rent, and that its imperfection should be disclosed to public view. By this disclosure, it will cease to be the object of adoration, but it will, nevertheless, be entitled to our warmest attachment.

The eighth section of the first article of the constitution contains among others the following grant of powers, viz. to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures; to raise and support armies; [to provide and maintain a navy](#); to regulate commerce with foreign nations, and among the several States, and, with the Indian tribes; to [establish post-offices and post-roads](#).[§] This selection contains five grants of general power. Under the power to coin money it is conceived that Congress would have a right to provide for the punishment of counterfeiting the money after it was coined, and that this power is fairly incidental to, and comprehended in, the general power. The power to raise armies and provide and maintain a navy comprehends, beyond the possibility of doubt, the right to make rules for the government and regulation of the land and naval forces; and yet, in these three cases, the constitution, after making the grant of general power, delegates specifically the powers which are fairly comprehended within the general power. If this however should be denied, the construction which has been uniformly

§ How negligent it was of the Framers of the Constitution to leave out a Federal Bank and U.S.-wide Postal Savings Offices. Many of these Framers were bankers, and after the formation of the United States many of the very actively promoted the idea of organizing an independent central bank. While advocating for this bank, all the friends of the concept claimed that such bank is just as essential to the existence of the federal government as the Navy.

A Federal Bank is essential to the government and to the citizens, therefore it should be included in the Constitution, and should be owned and operated by the Government the same as the Navy is ---and it should not be mingled with private money corporations.

If every Post-Office is also a branch office of the Postal Savings Bank, every citizen may conveniently conduct his big and small financial transactions with the Federal Government. If there is a Sub-Treasury office in the capitals of every member State, and also in larger cities, collection of duties, imposts, taxes, &c may easily be made.

The notes of the Treasury (large and small) may serve as the best paper currency the nation may have ---it would always retain its face-value, everywhere in the U.S.

If the Frames had framed a Constitution that included a Bank, no member State would have ratified that constitution. If Alexander Hamilton, in 1786 or 1787 or

given to the remaining powers which have been selected, will establish the fact beyond the power of contradiction. Under the power to regulate commerce, Congress has exercised the power of erecting light houses, as incidental to that power, and fairly comprehended within it. Under the power to establish post offices and post roads, Congress has provided for the punishment of offences against the post office department. If the Congress can exercise an incidental power not granted in one case, it can in all cases of a similar kind. But it is said, that the enumeration of certain powers excludes all other powers not enumerated. This is true so far as original substantive grants of power are concerned, but it is not true when applied to express grants of power which are strictly incidental to some original and substantive grant of power. If it were true in relation to them, Congress could not pass a law to punish offences against the post office establishment, because the constitution has expressly given the power to punish offences against the current coin; and as it has given the power to punish offences committed against that grant of general power, and has withheld it in relation to the power to establish post offices and post roads, Congress cannot, according to this rule of construction, so warmly contended for, pass any law to provide for the punishment of such offences. The power to make rules for the regulation and government of the land and naval forces, I have shown to be strictly incidental to the power to raise armies, and provide and maintain navies; but, according to this rule of construction, all incidental powers are excluded except the few which are enumerated, which would exclude from all claim to constitutionality nearly one half of your laws, and, what is still more to be deprecated, would render your constitution equally imbecile with the old articles of confederation.

When we come to examine the fourth article, the absurdity of this rule of construction, and also of the idea of perfection which has been attributed to the constitution, will be equally manifest. This article appears to be of a miscellaneous character, and very similar to the codicil of a

1788 or 1789 had mentioned publicly that following the formation of the Federal Government, he intended to ask for a charter of a Bank of the United States, the member States would have asked for an 11th amendment to prevent such eventuality.

will. The first article provides for the organization of Congress; defines its powers; prescribes limitations upon the powers previously granted; and sets metes and bounds to the authority of the State Governments. The second article provides for the organization of the Executive Department, and defines its power and duty. The third article defines the tenure by which the persons in whom the judicial power may be vested shall hold their offices, and prescribes the extent of their power and jurisdiction. These three articles provide for the three great Departments of Government, called into existence by the constitution, but some other provisions just then occur, which ought to have been included in one or the other of the preceding articles, and these provisions are incorporated and compose the fourth article. The first section of it declares, that "full faith and credit shall be given, in each State, to the public acts, records, and judicial proceedings, of every other State; and the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings, shall be proved, and the effect thereof." In the second section it declares that a person charged, in any State, with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime. A similar provision is contained in the same section, relative to fugitives who are bound to labor, by the laws of any State. In the first case which has been selected, express authority has been given to Congress, to prescribe the manner in which the records, &c. should be proved, and also the effect thereof; but, in the other two, no authority is given to Congress; and yet, the bare inspection of the three cases, will prove that the interference of Congress is less necessary in the first than in the two remaining cases. A record must always be proved by itself, because it is the highest evidence of which the case admits. The effect of a record ought to depend upon the laws of the State of which it is a record, and therefore the power to prescribe the effect of a record was wholly unnecessary, and has been so held by Congress ---no law having been passed to prescribe the effect of a record. In the

second case, there seems to be some apparent reason for passing a law to ascertain the officer upon whom the demand is to be made; what evidence of the identity of the person demanded, and of the guilt of the party charged, must be produced, before the obligation to deliver shall be complete. The same apparent reason exists for the passage of a law relative to fugitives from labor. According, however, to the rule of construction contended for, Congress cannot pass any law to carry the constitution into effect, in the two last cases selected, because express power has been given in the first, and is withheld in the two last. But Congress has nevertheless passed laws to carry those provisions into effect, and this exercise of power has never been complained of by the People or the States.

Mr. President, it is contended by those who are opposed to the passage of this bill, that Congress can exercise no power by implication, and yet it is admitted, nay, even asserted, that Congress would have power to pass all laws necessary to carry the constitution into effect, whether it had given or withheld the power which is contained in the following paragraph of the eighth section of the first article: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States or in any department or officer thereof." If this part of the constitution really confers no power, it, at least, according to this opinion, strips it of that attribute of perfection which has by these gentlemen been ascribed to it. But, sir, this is not the fact. It does confer power, of the most substantial and salutary nature. Let us, sir, take a view of the constitution upon the supposition that no power is vested in the Government by this clause, and see how the exclusion of power by implication can be reconciled to the most important acts of the Government. The constitution has expressly given Congress power "to constitute tribunals inferior to the supreme court," but it has nowhere expressly given the power to constitute a supreme court. In the third article it is said, "the judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time

ordain and establish." The discretion, which is here given to Congress, is confined to the inferior courts, which it may from time to time ordain and establish, and not to the supreme court. In the discussion which took place upon the bill to repeal the judicial system of the United States, in the year 1802, this distinction is strongly insisted upon by the advocates for the repeal. The supreme court was said to be the creature of the constitution, and therefore intangible, but that Congress, possessing a discretionary power to create or not to create inferior tribunals, had the same discretionary power to abolish them whenever it was expedient. But, if even the discretionary power here vested does extend to the supreme court, yet the power of Congress to establish that court must rest upon implication, and upon implication alone. Under the authority to establish tribunals inferior to the supreme court, the power to establish a supreme court would, according to my ideas, be vested in Congress by implication. And, sir, it is only vested by implication, even if the declaration, that Congress shall have power to pass all laws necessary and proper to carry into effect the power vested in any department or officer of the Government, should be held to be an operative grant. Under this grant, Congress can pass laws to carry into effect the powers vested in the judicial department. What are the powers vested in this department ? That it shall exercise jurisdiction in all cases in law and equity arising under this constitution, &c. in all cases affecting ambassadors, &c. but the power to create the department, and to carry into effect the powers given to, or vested in, that department, are very different things.

The power to create the supreme court cannot be expressly granted in the power to pass all laws necessary and proper to carry into effect the powers vested in that court, but must, as I have endeavored to prove, be derived from implication. Let me explain my understanding of a power which exists by implication, by an example which will be comprehended by all who hear me. In a devise, an estate is granted to A, after the death of B, and no express disposition is made of the estate during the life of A; in that case, A is said to have an estate for life, by implication, in the property so

devised. So, when the constitution gives the right to create tribunals inferior to the supreme court, the right to create the supreme, is vested in Congress by implication. Shall we, after this, be told that Congress cannot constitutionally exercise any right by implication? By the exercise of a right, derived only from implication, Congress has organized a supreme court, and then, as incidental to this power, existing only by implication, it has passed laws to punish offences against the law by which the court has been created and organized. Sir, the right of the Government to accept of the District of Columbia exists only by implication. The right of the Government to purchase or accept of places for the erection of forts, magazines, arsenals, and dock-yards, exists only by implication; and yet no man in the nation, so far as my knowledge extends, has complained of the exercise of these implied powers, as an unconstitutional usurpation of power. The right to purchase or accept of places for the erection of light-houses, as well as the right to erect and support light-houses, must be derived by implication alone, if any such right exists. The clause in the constitution which gives Congress the power "to exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings," certainly gives no express power to accept or purchase any of the places, destined for the uses therein specified. The only power expressly given in this clause is that of exercising exclusive legislation in such places; the right to accept or purchase must be derived by implication from this clause, or it must be shown to be comprehended in, or incidental to, some other power, expressly delegated by the constitution. I shall now attempt to show, that, according to the construction which has been given to other parts of this constitution, Congress has the right to incorporate a bank, to enable it to manage the fiscal concerns of the nation. If this can be done, and if it can also be shown that the correctness

of such construction has never excited murmur or complaint ---that it has not even been questioned--- I shall have accomplished everything which it will be incumbent on me to prove, to justify the passage of the bill upon your table.

The power to lay and collect taxes, duties, imposts, and excises, together with the power to pass all laws which may be necessary and proper late commerce, Congress exercises the right of building and supporting light houses. What do we understand by regulating commerce? Where do you expect to find regulations of commerce? Will any man look for them any where else than in your treaties with foreign nations, and in your statutes regulating your custom houses and customhouse officers? What are the reasons for vesting Congress with the right to regulate commerce with foreign nations, and among the several States? The commerce of a nation is a matter of the greatest importance in all civilized countries. It depends upon compacts with other nations; and whether they are beneficial or prejudicial, depends not so much on the reciprocal interest of nations as upon their capacity to defend their rights and redress their wrongs. It was, therefore, highly important that the right to regulate commerce with foreign nations should be vested in the national Government. If the regulation of commerce among the several States had been left with the States, a multiplicity of conflicting regulations would have been the consequence. Endless collisions would have been created, and that harmony and good neighborhood, so essential between the members of a federal republic, would have been wholly unattainable. The best interest of the community therefore imperiously required, that this power should be delegated to Congress. Not so of light houses. The interest of the States would have induced them to erect light-houses,^{\$} where they were necessary, and when erected they would have been equally beneficial to their own vessels, the vessels of their sister States, and of foreign nations. The performance of this duty could have been most safely confided to the States. They were better informed of the

^{\$} A light-house is fully owned and operated by the government. Not one of you would recommend or suggest the separation of the financial affairs of the government from private banks. Ye always want to gift the government's credit to a bank; and ye always want to give this bank control over the nation's money-supply.

situations in which they ought to be erected, than Congress could possibly be, and could enforce the execution of such regulations as might be necessary to make them useful. How then has it happened that Congress has taken upon itself the right to erect light-houses, under their general power to regulate commerce ?

I have heard and seen, in the public prints, a great deal of unintelligible jargon about the incidentally of a law to the power delegated and intended to be executed by it, and of its relation to the end which is to be accomplished by its exercise, which I acknowledge I do not clearly and distinctly comprehend, and must, therefore, be excused from answering. I speak now of the public newspapers to which I am compelled to resort to ascertain the objections which are made to this measure, as gentlemen have persevered in refusing to assign the reasons which have induced them to oppose the passage of the bill. But, sir, I can clearly comprehend that the right to erect lighthouses is not incidental to the power of regulating commerce, unless every thing is incidental to that power which tends to facilitate and promote the prosperity of commerce. It is contended that, under the power to lay and collect taxes, imposts, and duties, you can pass all laws necessary for that purpose; but they must be laws to lay and collect taxes, imposts, and duties, and not laws which tend to promote the collection of taxes. A law to erect light houses is no more a law to regulate commerce, than a law creating a bank is a law to collect taxes, imposts, and duties. But the erection of light-houses tends to facilitate and promote the security and prosperity of commerce, and, in an equal degree, the erection of a bank tends to facilitate and ensure the collection, safe-keeping, and transmission, of your revenue. If, by this rule of construction, which is applied to light houses, but denied to the bank, Congress can, as incidental to the power to regulate commerce, erect light houses, it will be easy to show that the same right may be exercised, as incidental to the power of laying and collecting duties and imposts. Duties cannot be collected unless vessels importing dutiable merchandise arrive in port; whatever, therefore, tends to secure their safe arrival, may be exercised

under that general power; the erection of light houses does facilitate the safe arrival of vessels in port; and Congress, therefore, can exercise this right as incidental to the power to lay imposts and duties.

But it is said the advocates of the bank differ among themselves in fixing, upon the general power to which the right to create a bank is incidental, and that this difference proves that there is no incidentality, to use a favorite expression, between that and any one of the enumerated general powers. The same reason can be urged with equal force against the constitutionality of every law for the erection of light houses. Let the advocates for this doctrine lay their finger upon the power to which the right of erecting light houses is incidental. It can be derived, with as much apparent plausibility and reason, from the right to lay duties, as from the right to regulate commerce. Who is there now in this body who has not voted for the erection of a light-house? And no man who reads one of these, will believe it to be a regulation of commerce. And no man in the nation, so far as my knowledge extends, has ever complained of the exercise of this power. The right to erect light houses is exercised, because the commerce of the nation, or the collection of duties, is greatly facilitated by that means; and, sir, the right to create a bank is exercised, because the collection of your revenue, and the safe keeping and easy and speedy transmission of your public money, is not simply facilitated, but because these important objects are more perfectly secured by the erection of a bank than they can be by any other means in the power of human imagination to devise. We say, therefore, in the words of the constitution, that a bank is necessary and proper to enable the Government to carry into complete effect the right to lay and collect taxes, imposts, duties, and excises. We do not say, that the existence of the Government absolutely depends upon the operations of a bank, but that a National Bank enables the Government to manage its fiscal concerns more advantageously than it could do by any other means. The terms necessary and proper, according to the construction given to every part of the constitution, impose no limitation upon the powers previously delegated. If these words had

been omitted in the clause giving authority to pass laws to carry into execution the powers vested by the constitution in the National Government, still Congress would have been bound to pass laws which were necessary and proper, and not such as were unnecessary and improper. Every Legislative body, every person invested with power of any kind, is morally bound to use only those means which are necessary and proper for the correct execution of the powers delegated to them. But, it is contended, that, if a bank is necessary and proper for the management of the fiscal concerns of the nation, yet Congress has no power to incorporate one, because there are State banks which may be resorted to. No person who has undertaken to discuss this question, has, as far as my knowledge extends, ventured to declare, that a bank is not necessary. Every man admits, directly or indirectly, the necessity of resorting to banks of some kind. This admission is at least an apparent abandonment of the constitutional objection: for, if a bank is necessary and proper, then have Congress the constitutional right to erect a bank. But this is denied. It is contended that this idea rests alone upon the presumption that the Government of the United States is wholly independent of the State Governments; which is not the fact. That this very law is dependent upon the State courts for its execution. This is certainly not the fact. The courts of the United States have decided, in the most solemn manner, that they have cognizance of all cases affecting the Bank of the United States.

Sir, it is true that the Government of the United States is dependent upon the State Governments for its organization. Members of both Houses of Congress, and the President of the United States, are chosen by the State Governments, or under the authority of their laws. But it is equally true, that, wherever the constitution confides to the State Governments the right to perform any act in relation to the Federal Government, it imposes the most solemn obligation upon them to perform the act. The constitution of the United States, as to these particular acts, is the constitution of the several States, and their functionaries are accordingly sworn to support it. Can it then be seriously contended that, because

the constitution has, in some cases, made the Government of the United States dependent upon the State Governments, in all which cases it has imposed the most solemn obligations upon them to act, that it will be necessary and proper for Congress to make itself dependent upon them, in cases where no such obligation is imposed? The constitution has defined all the cases where this Government ought to be dependent upon that of the States, and it would be unwise and improvident for us to multiply these cases, legislative acts, especially where we have no power to compel them to perform the act for which we have made ourselves their dependents. In forming a permanent system of revenue, it would be unwise in Congress to rely for its collection and transmission from one extreme of this extensive empire to the other, upon any accidental circumstance, wholly beyond their power or control. There are State banks in almost every State in the Union, but their existence is wholly independent of this Government, and their dissolution is equally so. The Secretary of the Treasury has informed you that he conceives a bank is necessary to the legitimate exercise of the powers vested by the constitution in the Government; I know, sir, that the testimony of this officer will not be very highly estimated by several honorable members of this body. I am aware that this opinion has subjected him, and the committee also, to the most invidious aspersions; but, sir, the situation of that officer, independent of his immense talents, enables him to form a more correct opinion than any other man in the nation, of the degree of necessity which exists at the present time for a National Bank, to enable the Government to manage its fiscal operations. He has been ten years at the head of your treasury; he is thoroughly acquainted with the influence of the bank upon your revenue system; and he has, when called upon, declared that a bank is necessary to the proper exercise of the legitimate powers of the Government. His testimony is entitled to great weight in the decision of this question, at least with those gentlemen who have no knowledge of the practical effects of the operations of the bank in the collection, safe keeping, and transmission of your revenue.

In the selection of means to carry any of your constitutional powers into effect, you must exercise a sound discretion; acting under its influence, you will discover that what is proper at one time, may be extremely unfit and improper at another. The original powers granted to the Government by the constitution, can never change with the varying circumstances of the country; but the means by which those powers are to be carried into effect, must necessarily vary with the varying state and circumstances of the nation. We are, when acting to-day, not to inquire what means were necessary and proper twenty years ago; not what were necessary and proper at the organization of the Government; but our inquiry must be, what means are necessary and proper this day. The constitution, in relation to the means by which its powers are to be executed, is one eternal now. The state of things now, the precise point of time when we are called upon to act, must determine our choice in the selection of means to execute the delegated powers.

It is said, that the States have reserved to themselves the exclusive right of erecting banks. That the States have exercised the right of establishing banks, is a fact not to be denied; but that they have this right under the constitution, is extremely questionable. Had these great States, who have undertaken, by their instructions, to influence the decision of this question by Congress, contented themselves with the exercise of this right to establish banks, I should not, upon this occasion, enter into an investigation of that right. But these great States, not content with the exercise of an usurped authority, are, by usurpation, attempting to legislate for Congress.

And, sir, what is the inducement with these great States, to put down the Bank of the United States? Their avarice, combined with the love of domination. They have erected banks, in many of which they hold stock to a considerable amount, and they wish to compel the United States to use their banks as places of deposit for their public moneys, by which they expect to increase their dividends. And in the banks in which they hold no stock, many of the individual members of their Legislatures are stockholders, and no doubt

were influenced to give instructions by motives of sheer avarice. The love of power, no doubt, has had some influence in producing these instructions. Every person who is not wholly ignorant of the history of this Government, knows something of the influence of these great States upon the councils of the nation. Have we not heard it said, that, after three of the great States had instructed their members to vote against the bank, it was a matter of too great delicacy for Congress to think of acting upon the subject? I had thought that the rights of the States were equal; that, if the rights of three of the little States were violated or affected, in any manner, that it was the subject of as much delicacy, as if the rights of three great States had been affected.. Sir, if this doctrine becomes fashionable, if two or three great States can, upon all occasions, through the agency of their Legislatures, control the deliberations of Congress, you will compel the smaller States, by the most direful necessity, to adopt the principle of one consolidated Government. Which of the States are to be principally benefitted by the dissolution of the bank? Those States in which the principal part of your revenue is to be collected. The great commercial States are to monopolize the benefits which are to arise from the deposits of your public money. The suppression of this bank will benefit none of the interior, or smaller States, in which there is little or no revenue collected. As the whole benefit is to be engrossed by three or four of the great Atlantic States, so the whole of the power, which the dissolution of this bank will take from the National Government, will be exclusively monopolized by the same States. Is it desirable to increase the influence of these great States, which is already too great, at the expense of the United States? Does not the history of these great States admonish us, in the most impressive terms, to beware of placing this Government in a state of dependence upon them ?

Sir, the time has been, and it will certainly arrive again, when some one or more of these great States will be found in a state of hostility to the National Government; and, with this knowledge, you are about to place the management of your public money in the hands of the State banks, who are

dependent, for their legal existence, upon the State Governments. But, sir, permit me to examine this exclusive right of the State Governments to create banks. In the tenth section of the first article of the constitution of the United States, it is declared, among other things, that no State shall coin money; emit bills of credit; make any thing, but gold or silver, a tender in the payment of debts. What, sir, is a bill of credit? Will it be contended that a bank bill is not a bill of credit? They are emphatically bills of credit. But it may be said, that the States do not, by the creation of banks, with authority to emit these bills of credit, infringe upon the constitution, because they do not emit the bills themselves. If they have not the power to emit bills of credit, a fortiori, they cannot delegate to others a right which they themselves cannot exercise.

But, sir, according to the maxims of law and sound reason, what they do by another they do themselves. If, then, the State Governments are restrained from exercising this right to incorporate a bank, it would appear *ex necessitate rei* that this right is vested in the Government of the United States. The entire sovereignty of this nation is vested in the State Governments, and in the Federal Government, except that part of it which is retained by the People, which is solely the right of electing their public functionaries. The right to create a corporation, is a right inherent in every sovereignty; the People of the United States cannot exercise this right. If, then, the States are restrained from creating a bank, with authority to emit bills of credit, it appears to be established that the Federal Government does possess this right. If, however, it is still believed that the law, by which this bank has been created, was the result of a forced construction of the constitution, yet I must contend, that that construction is entitled to some weight in the decision of this question.

The time and state of the public mind, when this construction was given, gives it a strong claim to consideration upon this occasion. This construction was given shortly after the Government was organized, when first impressions had not been effaced by lapse of time, or distorted by party feelings, or individual animosity. This law did not pass in the

hard unconstitutional times which produced the sedition law. No, sir, this law passed in the best days of this republic. At that time the idea of party, as now understood, was wholly unknown.^{\$} The parties which then existed were literally federal and anti-federal. Those who were friendly to the federal constitution, and those who were inimical to it, formed the only party then known in this nation. What, sir, is the situation in which we are now placed? What are the circumstances under which we are called upon to reject this bill? The great influential States, induced by motives of avarice and ambition, interpose the weight of their authority; attempt to put a veto upon your right to pass such laws as are necessary and proper for the general welfare, through the instrumentality of instructions, by depriving not only their Senators and Representatives of the exercise of a sound and honest discretion, but, also, by intimidating others by the weight of their influence and authority.

The democratic presses in these great States have, for more than twelve months past, teemed with the most scurrilous abuse against every member of Congress who has dared to utter a syllable in favor of the renewal of the bank charter. The member who dares to give his opinion in favor of the renewal of the charter, is instantly charged with being bribed by the agents of the bank ---with being corrupt ---with having trampled upon the rights and liberties of the People ---with having sold the sovereignty of the United States to foreign capitalists ---with being guilty of perjury, by having violated the constitution. Yes, sir, these are the circumstances under which we are called upon to reject the bill.

When we compare the circumstances under which we are now acting, with those which existed at the time when the law was passed to incorporate the bank, we may well distrust our own judgments.

^{\$} We do know that out of the 90 members of the first Congress, at least 29 were speculators ! We also know that 40 out of the 58 Framers were speculators ! We do know that these speculators directly benefited from their acts in Congress. We do know that bankers and bank-lawyers were sitting in the Senate and the House of Representatives. We do know that at least 28 of 39 Representatives who voted "yes" to the bill were federalists.

Sir, I had always thought that a corporation was an artificial body, existing only in contemplation of law; but, if we can believe the rantings of our democratic editors in these great States, and the denunciations of our public declaimers, it exists under the form of every foul and hateful beast, and bird, and creeping thing. It is an *Hydra*; it is a *Cerberus*; it is a *Gorgon*; it is a *Vulture*; it is a *Viper*. Yes, sir, in their imaginations it not only assumes every hideous and frightful form, but it possesses every poisonous, deleterious, and destructive quality. Shall we, sir, suffer our imaginations to be alarmed, and our judgments to be influenced, by such miserable stuff ? Shall we tamely act under the lash of this tyranny of the press ? No man complains of the discussion in the newspapers, of any subject which comes before the Legislature of the Union; but most solemnly protest against the course which has been pursued by these editors, in relation to this question. Instead of reasoning, to prove the unconstitutionality of the law, they charge members of Congress with being bribed or corrupted; and this is what they call the liberty of the press. To tyranny, under whatever form it may be exercised, I declare open and interminable war. To me it is perfectly indifferent whether the tyrant is an irresponsible editor, or a despotic monarch.

Mr. President, if the construction which has been given to the constitution is entitled to no weight with the members who now compose the Senate, will it be contended that the different acts of successive democratic Congresses, by which they have sanctioned the validity of the construction under which this bank was created, are entitled to no weight or consideration? Perhaps it would be unfair to lay any stress upon the simple acquiescence of our democratic predecessors in this measure; I shall, therefore, show, that the acts to which I allude were positive affirmative acts, and not simply, or in any degree, acts of acquiescence. By the charter, the corporation was authorized to establish offices of discount and deposite wheresoever it should think fit, within the United States. In the year 1803, the United States obtained Louisiana by purchase. Under the authority given in the charter, the corporation could not extend its branches into Louisiana. In

the year 1804, a democratic Congress passed a law to authorize this devouring monster to lay its destructive fangs upon the unfortunate people of these newly acquired territories. It has been said that the State Governments were competent to resist the execution of this law. How ungenerous, then, was it, in our democratic predecessors, to authorize this institution, with its pestilential fangs, to seize upon these helpless and unfortunate people, who had no State Governments competent to resist the execution of this law, and shield them from the deadly poison of this venomous viper? It was unkind; it was cruel.

Permit me, sir, to make one or two observations upon this competency of the State Governments to resist the authority or the execution of a law of Congress. What kind of resistance can they make, which is constitutional? I know of but one kind; and that is by elections. The People, and the States, have a right to change the members of the National Legislature, and, in that way, and in that alone, can they effect a change of the measures of this Government. It is true, there is another kind of resistance which may be made, but it is unknown to the constitution. This resistance depends upon physical force; it is an appeal to the sword; and by the sword must that appeal be decided, and not by the provisions of the constitution. We are informed, however, that the States thought it most prudent to acquiesce in this law, and waive the right of resisting it, to which they were so entirely competent.

Does the positive sanction of this measure, by our democratic Congresses, rest alone upon this act of 1804? No, sir. The act by which the bank was incorporated, made no provision for the punishment of those who might counterfeit its bills and checks. In the year 1798, a law for the punishment of such offences was passed. In the year 1807, a democratic Congress, composed of many of the same members who are now called upon to act again upon the subject of the bank, passed a law also for the punishment of the same offences against the bank. This is not all, sir; so great was the unanimity of both Houses upon this question, that the bill passed through both Houses without producing a call for the yeas and nays upon its final passage, or in any of its

intermediate stages. The constitution says, Congress shall make laws "to provide for the punishment of counterfeiting the securities and current coin of the United States." I have shown that the power to punish counterfeiting the current coin was fairly incidental to the power of coining money. But the power to punish counterfeiting the securities is an original grant of power, and not incidental to any one of the delegated powers. As the constitution has given the power to punish counterfeiting the securities and the current coin, expressly, according to the doctrine contended for by the enemies of the bank, the power to punish any other species of forgery is withheld. But let us pursue this idea a little further. The law incorporating the bank is denounced as unconstitutional; it therefore is not binding upon the People of the United States as a law; and yet the very men who denounce it, who declare it to be unconstitutional, have passed a law to condemn those who violate its provisions to ten years' imprisonment, and to enormous fines. With what propriety can we say that our republican predecessors have simply acquiesced in this measure? With what consistency can we now refuse to renew the charter, on account of the want of constitutional power?

But it is contended that we have done nothing more than simply acquiesced in this measure, and that our acquiescence was wholly the result of a conviction that the act incorporating a bank was a contract. What, sir, is the essence of a contract? That there shall be parties able to contract; that they do contract; that there shall be a consideration; a *quid pro quo*; that the conditions shall be reciprocal. What is the fact in relation to the bank bill? Does the bank make any stipulations in favor of the Government? No, none. Does the charter stipulate that the Government shall provide for the punishment of those who counterfeit bank bills? No. And yet a republican Congress, under the idea, I suppose, of its being a contract, has passed a law for that purpose. The law does not contain one essential feature of a contract; it is therefore no contract.

If I have succeeded in establishing the constitutional right of this House to pass a bill to incorporate a bank, the remaining part of the task which I have undertaken to perform

will be easily despatched. What are the circumstances under which we are called upon to vote against the renewal of the charter of the Bank of the United States? Europe is still convulsed to its centre by wars, which, in their progress, have overthrown the ancient bounds and limits of the independent nations among whom it has been immemorially parcelled out. The established usage and law of nations have been trampled under foot, both by land and sea. Such is the prospect abroad. What is our own internal situation? The confiscation of American property in the ports of France, Spain, Italy, and Holland; the depredations committed upon our commerce on the high seas, by British cruisers; and the embarrassments to which it has been subjected in the northern ports of Europe, have already produced numerous bankruptcies in most of our commercial cities. In addition to the embarrassments produced by these causes we have superadded those which must necessarily result from a non-intercourse with England, the country with which we have hitherto had the most extensive commercial intercourse. From these additional embarrassments we may be saved by the want of good faith in the French Government. Should that be the case, we shall most inevitably be excluded from all commercial intercourse with the European continent, which may be as embarrassing as the non-intercourse with Great Britain. In that event, our European commerce will be confined solely to Great Britain and her dependencies. Such, sir, are the circumstances under which we are called upon to dissolve suddenly an institution which circulates thirteen millions of dollars, and to which the commercial class of this nation are indebted fourteen millions of dollars. It must also be remembered, that the same class of your citizens are indebted to the Government nearly twelve millions of dollars, upon which your payments into the treasury for the discharge of the current expenses of the year are solely dependent.

Sir, I have never believed that the mantle of Elijah has descended upon my shoulders, and yet I can very easily foresee that individual and national distress must be produced by the sudden dissolution of the bank. The poorer part of your manufacturers and mechanics will be the first to feel the

distress. The deputation of mechanics and manufacturers from the city of Philadelphia stated to the committee, that, upon the rejection of the bill for the renewal of the charter, in the other House, the bank began to contract its discounts, and that the whole city was filled with alarm and dismay; that the credit even of bank paper was shaken, and individual confidence had received a severe shock; that, in consequence of this alarm and distress, the bank had determined to return to its former extent of discounts, and to continue it to the last moment; that the contraction of discounts, by the Bank of the United States, had produced a contraction of discounts in the State banks, so that those who had their accounts with the latter banks were in no better situation than the debtors of the former. Whenever a man testifies against his apparent interest, he ought to be believed. It is apparently the interest of the State banks that the Bank of the United States should be put down. It is their interest to discount good paper as largely as possible. The Bank of the United States discounts to the amount of about fifteen millions of dollars. The dissolution of this bank will bring into the market, which will then be solely occupied by the State banks, an excess of fifteen millions of good paper to be discounted. The demand for discounts, when compared with the discounting capital, will be greatly increased, and the benefit of that increase will be exclusively enjoyed by the State banks; it is therefore apparently their interest, that the Bank of the United States should be dissolved. But they have petitioned for the renewal of the charter.

It is said, however, that if so much distress is to flow from the dissolution of the bank, it proves that the banking system is deleterious in its consequences. I will not now enter into the discussion of that question, because it is not the question before the Senate. The system has long been practised upon; is increasing from day to day, and is wholly beyond the control of Congress. But, sir, an inspection of the journals of the Senate, of the present session, affords abundant evidence that this House, at least, believe that the banking system is a beneficial one. We have not incorporated more, I believe, than five banks within the District of Columbia, during the

present session. The renewal, or the refusal to renew this charter, does not then decide the question whether the banking system shall be abolished in the United States or not. Gentlemen cannot but be sensible of this. The old Congress incorporated the Bank of North America in the year 1781. New York and Massachusetts had followed the example before the Bank of the United States was incorporated, and every State in the Union has since incorporated banks. [The banking system has been too long and too deeply rooted, to be frowned out of existence by Congress.](#) If, however, gentlemen are convinced that the system of banking known and established among us is injurious in its effects, these injurious effects will be diminished by renewing the charter of the Bank of the United States. The State banks, whose credibility, in this case, is unquestionable, have told you that the influence of the Bank of the United States upon them is a beneficial one; that it prevents excessive discounts and emissions of paper, which, but for this check, would inevitably take place in the State banks. Every one of the State banks of Philadelphia, except one, has petitioned for the renewal of the Bank of the United States, and one of the deputation of merchants, who was a director of one of those banks, stated the reason why that bank had declined. That an association in some of the interior towns had been formed, without the authority of law, and that the bank was suspected, by the State Legislature, of having favored it; that a motion had been made in the State Legislature to inquire into the fact, and that, in consequence of this circumstance, that bank had been prevented from petitioning. The check which one bank has upon another is, in fact, the only substantial check which can be devised against excessive discounts and emissions by State banks. You may limit and restrain them by subjecting the directors, individually, to any loss which may be incurred by a violation of the restrictions imposed by the charter.

Suppose they discount to twice the amount permitted, and the stockholders, who, alone, have the means of discovery, ascertain the fact; they will not disclose it, because disclosure would destroy the credit of the bank. But it is objected to the renewal of the charter, the renewal of the

charter, that it has been a political machine in the hands of our political opponents, and that it has been partial in its operations. That it may have been so used is very possible; but that it has, within the last twelve years, been so used, is not believed. Some of the delegation of the mechanics, all of whom, I believe, were democrats, had been dealers with that bank for twelve years, and they all united in contradicting all idea of its being partial, or influenced, in the slightest degree, by the political character of its customers, during that time. And one of them said, explicitly, that opposition to the renewal in Philadelphia was confined principally to the newspapers. When there were but few banks, and the competition for discounts was great, I can readily believe that it might have had some influence upon political questions, and that it was guilty of partiality; and so would any other institution be, placed in the same situation. The multiplication of banks, in the United States, has given us the most ample security against the repetition of either of these offences.

The most formidable objection against the expediency of the renewal, in the estimation of those who are opposed to it, is, that a large portion of the stock is held by foreigners; and apprehensions are entertained that these foreigners have had, and will again have, some influence upon our public councils; that, but for the influence thus acquired, we should have taken stronger measures in vindication of our rights. If this influence really exists, some degree of influence must also exist and operate upon those foreigners in our favor. If the most profitable part of their capital is that which is invested in our bank stock, which the Government has sold to them, will they not exert their influence upon their own councils, upon any apprehension of war between the two countries? Surely the country in which their capital is employed, and who can, at any moment, lay their hands upon it, must have more influence upon the conduct of the capitalists, than they can possibly have upon it.

How long shall we frighten ourselves with empty phantoms and imaginary evils? How long shall we indulge ourselves in the pursuit of some imaginary theoretical good, which, like the will o' the wisp, continually eludes our grasp?

Sir, we have the experience of twenty years for our guide. During that lapse of years your finances have been, through the agency of this bank, skilfully and successfully managed. During this period, the improvement of the country, and the prosperity of the nation, have been rapidly progressing. Why, then, should we, at this perilous and momentous crisis, abandon a well tried system; faulty, perhaps, in the detail, but sound in its fundamental principles ? Does the pride of opinion revolt at the idea of acquiescing in the system of your political opponents ? Come! and with me sacrifice your pride and political resentments at the shrine of political good. Let them be made a propitiatory sacrifice for the promotion of the public welfare, the savor of which will ascend to Heaven, and be there recorded as a lasting, an everlasting evidence, of your devotion to the happiness of your country.

Tuesday, February 12th 1811.

Motion to strike out the first section of the bill.

Mr. Leib spoke in favor of the motion, and Mr. Lloyd against it.

MR. LEIB said that it was not his intention to have broken silence on this subject; he meant to content himself with a silent vote, as he considered the merits of the bill to be well understood, and every member's mind made up on them. The subject had become so trite, and was so hackneyed, as to have become threadbare, and he united in opinion with his friend from Tennessee, that it was not only a waste of time, but a work of supererogation to discuss it. He should not have risen but for some remarks which had yesterday fallen from the gentleman from Georgia. Some intimation had been given by him about instructions from the great States, and while it seemed to be matter of complaint that such instructions had been given, it appeared, also, that the complaint extended to the non-production of them to the Senate. He had received instructions from a great State, as the gentleman from Georgia had termed it ---for he did not recollect that the gentleman from Maryland, to whom the phrase was attributed, had used it--- the great State of Pennsylvania; and those instructions he would have offered to the Senate before, had not some informality in their shape precluded him. The instructions having been mentioned, he deemed it a duty to read them to the Senate.

In the General Assembly of the Commonwealth of Pennsylvania.

The People of the United States, by the adoption of the federal constitution, established a General Government for special purposes, reserving to themselves, respectively, the rights and authorities not delegated in that instrument. To the compact, thereby created, each State acceded, in its charter, as a State, and is a party; the United States forming, as to it, the other party ---the act of union, thus entered into, being, to all intents and purposes, a treaty between sovereign States. The General Government, by this treaty, was not constituted the exclusive or final judge of the powers it was to exercise: for, if it were so to judge, then its judgment, and not the constitution, would be the measure of its authority.

Should the General Government, in any of its departments, violate the the constitution, it rests with the States and with the People, to apply suitable remedies. With these impressions, the Legislature of Pennsylvania, ever

solicitous to secure an administration of the Federal and State Governments, conformably to the true spirit of their respective constitutions, feel it their duty to express their sentiments upon an important subject now before Congress, viz. the continuance or establishment of a bank. From a careful review of the powers vested in the General Government, they have the most positive conviction that the authority to grant charters of incorporation, within the jurisdiction of any State, without the consent thereof, is not recognized in that instrument, either expressly, or by any warrantable implication: Therefore,

Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, That the Senators of this State in the Senate of the United States be, and they are hereby, instructed, and the Representatives of this State in the House of Representatives of the United States be, and they hereby are, requested, to use every exertion in their power to prevent the charter of the Bank of the United States from being renewed, or any other bank from being chartered by Congress, designed to have operation within the jurisdiction of any State, without first having obtained the consent of the Legislature of such State.

Resolved, That the Governor be, and he hereby is, requested to forward a copy of the above preamble and resolution to each of the Senators and Representatives of this State in the Congress of the United States.

John Weber,
Speaker of the House of Representatives.

P.C. Lane,
Speaker of the Senate.

In the House of Representatives, January 11th, 1811.

Read and adopted.

Attest,

George Heckert,
Clerk of the House of Representatives.

In Senate, January 11th, 1811.

Read and adopted.

Attest,

Joseph A. M'Jimsey,
Clerk of the Senate.

Wherefore, he would ask, was this made a cause of complaint ? The instructions were given by the Legislature of Pennsylvania to their Representatives. Was the right of the constituent denied to instruct his Representative ? For the instructions extended not beyond the representation. It was an affair between Representatives and constituents, and as it did not proceed beyond them, as none else were comprehended, surely no cause could have been given for complaint. For his part he assented to the right of constituents to instruct, and was ready to yield it obedience ---it was in

accordance with his political maxims; and he should ever consider himself bound to obey instructions as long as they did not require the performance of an act, which would violate that oath which he had taken. On this occasion he yielded obedience with pride and pleasure, as the instructions corresponded with his own impressions of solemn obligation. He considered himself as the Representative of the State of Pennsylvania; to represent, in his mind, was to appear for, or stand in the place of, the body represented, and, in this view, he considered it his duty to speak the sense of his constituents: to do as they would do, were they present; otherwise he should misrepresent them. Did this look like dictation? Did it appear as if the great States desired to give law to the smaller ones, when they only gave their instructions to their own Representatives, and none else were asked to render them obedience? He could not suppose it.

Allusion had been made to Pennsylvania on account of resistance to the laws of the United States. He felt the reproach, and had often experienced mortification from it. He had never countenanced unlawful opposition, nor had the People of Pennsylvania: for, when it had existed, it had been local, and had never embraced the State; and, therefore, the People of Pennsylvania were not comprehended in the reproach. The gentleman from Georgia had cited authority for renewing the charter of the Bank of the United States, and had at the same time disclaimed authority; in imitation of his example he would do so too, and he might say, that, for the excitement to insurrection in a part of Pennsylvania, he might refer to a source of authority as high as the gentleman from Georgia had referred for the establishment of the bank charter.

Some reasons had been assigned for the refusal of the Farmers and Mechanics' Bank of Philadelphia to unite with the other banks, in petitioning for a charter, which did not appear to him to be correct. The gentleman who gave the information to the committee was director of the Bank of Philadelphia, and his information must have been derived from out of doors rumor. The Farmers and Mechanics' Bank, Mr. Leib apprehended, refused to petition for the renewal of

the charter of the Bank of the United States, for other reasons. He knew a gentleman who managed the affairs of that bank, of superior intelligence and information, and second to none in point of knowledge of banking, who was as much opposed to a renewal as he was, and for a reason not unlike that hinted at by the gentleman from Georgia, that the Bank of the United States was a check upon the other banks, but a check like that of a shark upon the little fish around him. It was in the power of the Bank of the United States, by means of its great capital and the Governmental patronage, to prey upon the other banks whenever it pleased, and this was sufficient reason for the Farmers and Mechanics' Bank to refuse its aid towards a renewal of the charter. These remarks he thought it his duty to submit to the Senate, and, in conformity with his first determination, he avoided any remarks upon the merits of the bill, which he conceived every member was already prepared to decide upon.

[Mr. LLOYD](#).¹⁸ Mr. President: This is, indeed, sir, an up-hill, wind-mill sort of warfare ---a novel mode of Legislative proceeding. That a bill should be brought in, on a very important subject, which has been long under consideration, and that a gentleman should move to strike out the first section of the bill, which comprises all its vitality, (for it is the first, section which provides for the continuance of the bank) and should be supported in it, without deigning to assign any other reasons than may be derived from newspaper publications, which are so crude and voluminous that not one man out of ten will so far misspend his time as to take the trouble to read them, is indeed extraordinary. Still, if gentlemen choose to adopt this dumb sort of legislation, and are determined to take the question without offering any arguments in support of their opinions, I certainly should not have interfered with their wishes, had I not been a member of the committee who had reported the bill, who had heard the testimony offered by two very respectable delegations from Philadelphia ---one from the master manufacturers and mechanics of the city, and the other from the merchants; and

had I not taken minutes of this testimony, which I find it is expected from me that I should relate to the Senate.

Sir, I consider the motion to strike out, now under consideration, as going to the entire destruction of the bill, without any reference to its details or modifications; it, therefore, appears to me in order, to take into consideration only the material principle of the bill: that is, whether it be proper that the charter of the bank should be renewed on any terms whatever, let those terms be what they may.

[General Smith of Maryland stated, that the gentleman was mistaken; he was at liberty to go into consideration of the details, and might discuss them if he pleased.]

I had thought, Mr. President, that when a section of a bill was moved to be struck out, that the subject matter of the part so moved to be stricken out was only in order to be considered but, however this may be, I take it to be strictly in order to show, that this bank has been ably and fairly conducted; that it has been beneficial to the country, and extremely useful to the Government; because, if this be shown, it will be the best argument that can be adduced for the rejection of the present motion, and the continuance of the bank.

Sir, it is admitted by the Secretary of the Treasury, in his communications to Congress, that the concerns of this bank have been "skilfully and wisely managed;" that the bank has made a very limited and moderate use of the public moneys deposited with it; and that it has greatly facilitated the operations of Government by the safe keeping and transmission of the public moneys. It has at all times met the wishes of the Government in making loans. It has done this even at six per cent, while the Government have been obliged, in one instance, for a considerable amount, to pay 8 per cent. to other persons for the loans obtained from them. It is admitted, sir, that the bank, at the request of the Treasury Department, has established branches for the purpose of facilitating the operations of the Government at places where such establishments could not but be inconvenient to them in point of management, and disadvantageous in point of profit. I allude more particularly, sir, to the branches of the bank

which have been established at New Orleans and at Washington. We have been told this session, sir, by a gentleman from Maryland, (Mr. Smith) that the territory of Orleans is a very wealthy one; that it probably contains a greater number of rich inhabitants, for its population, than any other district in the Union. Sir, if this be the fact, of whom does this wealthy population consist? Not of the inhabitants, but of the planters; men who are not borrowers of the bank; who, when they realise the sales of their produce, invest the surplus proceeds of it, beyond their expenditure, in the funds, or in the acquisition of new lands, or in the purchase of an additional number of negroes. Sir, it is notorious, that, from the recent possession by the United States of Louisiana, and the certainty that New Orleans must soon be the emporium of an immense western commerce, that city has become more the resort of the young, the adventurous, the enterprising, and the rash, among the mercantile men of our country, than any other city in the Union; and it is obvious, sir, in proportion as the borrowers from a bank consist of persons of this description, in the same proportion must the circumstances of such bank be unsound; and, without possessing any particular knowledge whatever on the state of this bank, if the collections of its debts are speedily made, I would not make the purchase at a discount of twenty-five per cent. from the nominal amount of them.

Sir, we can judge with more accuracy when we come nearer home. What is the state of the bank in this city? What the ability of its debtors to meet their engagements? It is stated the branch has a loan out here of four hundred thousand dollars. Where is the navigation? Where the wealthy merchant? Where are the opulent tradesmen? The extensive manufacturers ---to refund this money when they are called on to do it? Sir, they are not to be found; they do not exist here; there are but very few opulent men in the city, and those are either not borrowers of the bank, or not borrowers to an amount of any importance. Where, then, is the money to be found, or what has been done with it? It has probably been taken out of the Bank of the United States to build up the five or six District banks which you have chartered the present

session; to furnish the means of erecting the fifty or sixty brick houses which we are told have made their appearance during the last summer; to encourage speculations in city lots, and to enable the proprietors to progress with the half finished canal which nearly adjoins us. Well, sir, if the bank promptly calls in its loan of four hundred thousand dollars, will the debtors be enabled to meet their payments? Can they sell these city lots, these brick houses, these canal shares? No, sir, in such a state of things they could find no purchasers; they could nearly as well create a world as to furnish the money; and if the bank is to stop, and the payment of this debt be speedily coerced, I would not give two hundred thousand dollars for the whole of it.

In addition to this, I shall show presently, from testimony which cannot be controverted, that the conduct of the Bank of the United States, or its directors, or rather the stockholders, whose agents they are, in addition to being wise, and skilful, and moderate, as the Secretary of the Treasury states them to have been, that they have also been honorable, and liberal, and impartial; and if, in addition to this, it be proved that the bank has, in every instance where it had the ability to do it, met the wishes of the Government, and, to facilitate its views in the security and collection of the revenue, it has also established branches where it must have been obviously and palpably to the disadvantage of the bank to do it; if it has furnished capitals for the extension of our commerce, if it has provided means for the establishment of import and manufactories, if it has had a tendency to raise the price of our domestic produce, and has thus encouraged industry, and improved and embellished the interior of the country; it would seem pretty strongly to follow, that, if it be expedient to preserve the existence of an institution similar to this, then these gentlemen, on the score of merit, added to the experience of twenty years' successful operation, have a fair claim on the Government for a preference in favor of that which is already in operation.

I am aware, sir, that it may be stated, in opposition to this claim, that these stockholders have enjoyed a boon for twenty years, from which others of their fellow-citizens have been

deprived, except on such terms as the sellers of shares chose to prescribe; that the charter expires by its own limitation, and that, beyond this period, they have no right to expect any thing which may not arise from the interest and convenience of the Government. I admit, sir, there is considerable strength in these objections. The exclusive right contained in the charter ever appeared to me as furnishing the most solid constitutional objection against the bank. The creation of monopolies, the granting of exclusive privileges, except so far as to secure to the authors of useful inventions the benefit of their discoveries; the tying up of the hands of the Legislature, and depriving itself of the power of according to a set of citizens, who may come into legal existence to-morrow, or ten years hence, what it had given to another; ever appeared to me hostile to the genius and spirit of the People of the United States, and of all their institutions. Highly, then, sir, as I am induced to think of the conduct of this bank, from the best evidence I can obtain, still, from the considerations I have just mentioned, did the question now before us simply affect the stockholders, I should certainly not trouble the Senate with any remarks in reference to it, and should sit down in entire acquiescence, whether the prayer of their petition for the renewal of the charter of the bank were granted or rejected.

Sir, before quitting this idea of constitutional objection, permit me to make one or two brief remarks in regard to it. It is impossible for the ingenuity of man to devise any written system of government, which, after the lapse of time, extension of empire, or change of circumstances, shall be able to carry its own provisions into operation; hence, sir, the indispensable necessity of implied or resulting powers, and hence the provision in the constitution that the Government should exercise such additional powers as were necessary to carry those that had been delegated into effect. Sir, if this country goes on increasing and extending, in the ratio it has done, it is not impossible that hereafter, to provide for all the new cases that may arise under this new state of things, the defined powers may prove only a text, and the [implied or resulting powers may furnish the sermon](#) to it.

Permit me, sir, to put one question on this head, in addition to those so ably, and, to my view, unanswerably put yesterday, by the honorable gentleman from Georgia (Mr. Crawford.) Whence, sir, do you get the right, whence do you derive the power to erect custom houses in the maritime districts of the United States? To attach to them ten, fifteen, or twenty custom house officers, and clothe these men with authority to invade the domicile, to break into the dwelling-house of perhaps an innocent citizen? Whence do you get it, sir, except as an implied power, resulting from the authority given in the constitution, "to lay and collect taxes, duties, imposts, and excises?" If, under this authority, you can erect these custom houses, and create this municipal, fiscal, inquisitorial *gens d'armes*, with liberty to violate the rights of the citizen, to break into his castle at midnight, without even a form of a warrant, on a plausible appearance of probability, or probable cause of suspicion of his secreting smuggled goods, which the event may prove to be unfounded ---and it will be recollected that a majority of Congress voted for the grant of this power in its most offensive form, when, two years since, they voted for the act enforcing the embargo--- I say, sir, if, under this general power to collect duties, you can erect the establishment and give the offensive power just mentioned, can you not, with the concurrence even of the citizens, adopt another more mild and useful mode, and create an establishment for the collection and safe-keeping of the revenue, and place it under the direction of ten or twelve directors, and christen it an office of Discount and Deposit, or of Collection and Payment, as you like best? And can you not, when you have thus created it, give to the directors a power, which, perhaps, they would have without your grant, to receive and keep the cash of those who choose to place it with them, and to loan them money at the legal rate of interest, and, in some places, as at New York, at nearly fifteen per cent. below the legal rate of interest? If you can do this, then you have your bank established, sir, ---and most assuredly, if you can do one of these things, you can do the other.

Sir, the constitutional objection to this bank, on the ground that Congress had not the power to grant an act of incorporation, has ever appeared to me most unsound and untenable. Still, gentlemen of intelligence and of integrity, who have thought long and deeply on the subject, think differently from me; and I feel bound to respect their opinions, however opposed they maybe to my own. Yet, sir, I will venture to predict, without feeling any anxiety for the fate of the prophecy, that, should this bank be suffered to run down, such will be the state of things, before this time twelve months, that there are other gentlemen, who at present have constitutional objections, but who have not thought so long and deeply upon them, will, before that time, receive such a flood of intelligence, as, on this head, perfectly to dispel their doubts, and quiet their consciences.

Sir, I shall now proceed, as briefly as may be in my power, to state the situation of this bank on the expiration of its charter, and the effects on the community consequent on it. There is now due to the bank, from individuals, fifteen millions of dollars. These fifteen millions of dollars must be collected; the power of the bank to grant discounts will have ceased, and the duty of the directors must require them to make the collection. Sir, how is this to be done? Whence can the money be obtained? I shall demonstrate to you, presently, that already, from an apprehension of a non-renewal of the charter of the bank, business is nearly at a stand; that navigation, real estate, and merchandise, are unsaleable; and that a man worth one hundred thousand dollars, at the recently rated value of property, and owing 10,000 dollars, must still be utterly unable to meet his engagements. Suppose, sir, this property consists in houses or shipping; suppose his warehouse is full of goods, and he has a large sum placed at his credit in England. If, sir, he can neither sell his ships, nor his goods; if he cannot sell his real estate, nor scarcely give away his exchange, which, hitherto, to men who had money in England, has been a never failing source of supply in case of need; I say, under these circumstances, sir, whatever may be his property, he cannot meet his engagements. Sir, can men, thus situated, solvent as they ought to be ten times over,

find relief from the State banks? Certainly not, sir. These banks have already gone to the extreme length of their ability; they have always discounted to an amount in proportion to their capital, exceeding that of the Bank of the United States, which is incontrovertibly proved by the dividends they have declared, which have at most universally equalled and frequently exceeded those of the Bank of the United States, notwithstanding the advantage enjoyed by the latter from the deposit of public moneys. Sir, so far from having it in their power, in the case of the dissolution of the Bank of the United States, to assist the debtors to that bank in meeting their engagements to it, I affirm the fact, on which I have myself a perfect reliance, that, take the State banks, from Boston to Washington, and after paying their debts to the Bank of the United States, they have not, nor do I believe they have had, for six months back, specie enough to pay the debts due to their depositors, and the amount of their bills in circulation. And here I beg it to be observed, that bank bills, and bank deposits, or credits, are precisely the same thing ---with this difference, that the latter, from the residence in the neighborhood of the banks, and the vigilance of the proprietors, would be the first called for. How idle is it then to expect to obtain relief from banks which have already extended themselves beyond the bounds of prudence, and have not even at present the ability to meet their existing engagements? It might nearly as well be expected that a man who was already a bankrupt should prop and support his failing neighbor.^{\$}

Sir, much has been recently said of the amount of specie in the United States. Theoretical men have made many and vague conjectures about it, for, after all, it must rest upon conjecture. Some have estimated it at ten millions of dollars,

^{\$} You invent confidence-money to the amount that is several times larger than real money; you inject it into circulation and inflate a credit bubble ---then plead this artificially created necessity as the excuse for the perpetuation and expansion of this confidence system.

Live within your means, spend only what you already have. Prevent banks from issuing and circulating confidence-money; restrict banks to the lending of monies that actually exist and were saved up by someone; severely curtail discounting from the day a bank opens. Make banks full-liability corporations.

Put an end to this credit-economy that money corporations invent using their confidence-money !

some twelve, some twenty, and some newspaper scribblers at forty millions of dollars. Sir, I do not believe that, for the last ten years, the United States have at any time been more bare of specie than at the present moment. A few years since, specie flowed in upon us in abundance. This resulted principally from an operation of a very singular and peculiar nature. The Spanish Government, as it was then understood, agreed to pay to France a very large sum of money ---many millions of dollars, the precise number I am unable to state---from her possessions in South America. France contracted with a celebrated English banking house, as was said at the time, with either the concurrence or connivance of the English Government, that this money should be obtained through the United States. These bankers, by their agent, contacted with certain American houses, principally I believe in Baltimore, for the importation of this specie from La Vera Cruy into the United States, from whence it was not transmitted in coin to Europe, but invested in adventures in the shipments of produce, the proceeds of which ultimately go into the hands of these bankers in London, or of their friends on the continent, from whom it was finally realized by the French Government, either by drafts from Paris or remittances to that city. This operation had a trebly favorable effect on the United States ---it made fortunes for some of the merchants, it furnished the means of shipments to Europe, and it also provided the funds for adventures to the East Indies and to China. But this contract has now been finished some years; and since that time there has been a constant drain of specie from the country. Where it is in future to be procured from, I know not. Not from South America ---specie is, I believe, protected from exportation there, except to Spain. From Spain we cannot get it ---to a great part of what was Spain we have now scarcely any trade. From France it cannot be obtained: for, if we can get there even by licence, we are obliged to bring back her produce or manufactures. From England it cannot be imported ---it is now made highly penal to attempt to send it out of the kingdom. With South America we have but little trade; hitherto we furnished them with smuggled or licensed European and India goods, but now the markets are

flooded with these goods, by importations direct from England, and which have been attended with great loss to the shippers. For these reasons, it is difficult to find a vessel sailing from the United States to the Spanish ports in South America. These are among the reasons why the amount of specie now in the country is small, and has for some time past been gradually lessening.

Sir, without indulging in vague conjectures, what are the best data from which we have to form an estimate of the amount of specie in the country? The Bank of the United States has five millions of dollars in its vaults. In Boston there are three State banks; in New York I believe four; Philadelphia four; and Baltimore eight; call these nineteen, twenty, and allow on an average one hundred and fifty thousand dollars specie, which probably is as much as they generally possess, and this will make three millions of dollars; this amount, united to the sum in the vaults of the Bank of the United States gives eight millions of dollars, to which, if you allow two millions of dollars for a loose circulation of specie, you get an aggregate of ten millions of dollars.

We are sometimes told of the large sums of money hoarded in our country by individuals; probably there may be some among the German farmers in Pennsylvania ---perhaps more in that State than in any other, or all the others in the Union, but still of no great amount ---the reputation of a little money possessed in this way easily swells into a large sum. At any rate, let the amount be what it may, in time of distress and mistrust, it would afford no addition to your circulating medium: for it is precisely in times like these, that men who hoard money will lock it up most securely.

Sir, the circulation of our country is at present emphatically a [paper](#) circulation; very little specie passes in exchange between individuals; it is a circulation bottomed on bank paper and bank credits, amounting perhaps to fifty millions of dollars. And on what, sir, does this circulation rest? It rests upon the ten millions of dollars, if that be the amount of specie in the country, and upon public [confidence](#).^{\$}

^{\$} And this confidence-money system is your vaunted blessing the central bank provide !!

The Bank of the United States has fifteen millions of dollars to collect; call it ten, sir ---nobody will dispute this--- no one will pretend that this bank is not solvent ---the remnant of its surplus dividends, and the interest it will have earned, will be sufficient to cover its losses at New Orleans, at Washington, and perhaps elsewhere. In what are these ten millions of dollars to be collected? In bank bills, the credit of which is at least doubtful? No, Sir, in specie; and when this is entirely withdrawn from the State banks, and the banks are unable to pay the money for their bills, who does not see that this **confidence** is instantly destroyed ---that the **bubble**^{\$} bursts--- that floods of paper bills will be poured in upon them, which they will be unable to meet, and which will for a time be as worthless as oak leaves; that the banks themselves must at least temporarily become bankrupts; and that a prostration of credit, and of all those habits of punctuality which, for twenty years, we have been striving so successfully to establish, will inevitably ensue, and, with them also, there must be suspended the commerce, the industry and manufactures of the country; and a scene of embarrassment and derangement be produced, which has been unexampled in our history.

I will now make a very few remarks on the effects which the dissolution of the bank will have on the revenue and fiscal concerns of the country. Can it be supposed, sir, that the source to which will be imputed the distress that will have flowed from this event, will be the first to be thought of, to be guarded against a participation of the evils that will result from it, in preference to the claims of the most intimate friends and connexions? No, sir, the bonds due to the United States will be collected only at the tail of an execution. But I mean not to press this consideration. Admit, for a moment, that they will all be equally well collected; that they will be paid as usual, although it is palpable, that, for a considerable time, the merchants will be unable to find the means to pay them; yet, admit, sir, that the money is collected in the State banks, how is it to be transmitted? It must come to the centre of the Seat

^{\$} Because confidence-bubbles (like soap-bubbles) always burst ---it is their nature, they can't help it. (and people like you always blame everything & anything, and everyone, but the bankers who generated and inflated that credit-bubble with their confidence-money)

of Government; very little of the public money is expended in the Northern section of the Union. Will it come from the Eastward, in bills of the State banks? Penobscot bank bills sometimes will not pass in Boston; Boston bills pass with difficulty in New York or Philadelphia; and bills of New York State banks probably would not be readily current in Washington. You must, then, sir, if Boston gives you a revenue of two millions of dollars, transmit the greater part of it to the seat of Government, or wherever else it may be wanted, in specie. Can this be done? We have not two millions of dollars of specie in our town, and, I may almost venture to say, never had. Suppose you make this transmission once, can you do it the second time? No, sir, the thing is utterly impracticable. You must adopt some other mode. Exchange between the different cities will not reach the case; frequently it cannot be purchased even for an insignificant amount.

Sir, will your money, when collected, be safe in the State banks? Of this I am extremely doubtful. Solicitations will undoubtedly be made for it from all quarters. They have already been made. In one instance, I am told, sir, the agent of a bank, even during the few past weeks, has been here for the purpose; that suddenly the agent was gone, and in a few days it was discovered that, owing to the failure of one of the debtors to the bank which he represented, (a great broker) the stock had fallen in one day near twenty per cent. What was this the evidence of, but that those who were most interested in this bank, the stockholders who were on the spot, and best acquainted with its solidity, were willing to wash their hands of their concern in it, at almost any rate of sacrifice? Sir, I only state this, as it was here reported, I have no personal knowledge on the subject. But will you trust your funds with an institution thus precarious, and whose solidity is distrusted even by its best friends?

By an account of the receipts and expenditures for the year 1810, laid on our tables. I find there has been passed to the credit of the United States \$390 received from the Lincoln and Kennebeck bank, in Massachusetts, as an interest on the public money while deposited in that bank. The history of this

credit of interest, is, I presume, the following: The money was deposited at the bank for account of the United States; the bank used the money for its own accommodation, and when called on for the amount could not refund it. This allowance of interest is, therefore, for the time during which the bank could not pay the money. The amount, in this instance, is small, sir, and the United States have received a compensation for the use of the money. It proves, however, what has been done, and will be done again. Suppose it should be done on a large scale, and when the Government wants its funds, it cannot command them; an interest on the amount will not pay the salaries of the officers of the nation; it will not feed your armies, nor support your navy; it must derange the whole system of the Government, and, perhaps, bring it to a stand still. I have no hesitation, sir, in declaring, that, in my opinion, if the collection and transmission of the public moneys be entrusted exclusively to the State banks, that, at least, great trouble, perplexity, and occasional defalcation will ensue.^{\$}

I shall now present, sir, to the Senate, the testimony which was offered to the committee by the two delegations from Philadelphia, the one selected from the master manufacturers and mechanics, and the other from the merchants of that city. It will go conclusively to show the effects which it is apprehended will ensue from the cessation of the Bank of the United States in a city, the first, perhaps, in population and wealth in the Union, and the one least engaged, of any of the great seaports, in proportion to its wealth, in foreign commerce. The agents from the manufacturers and mechanics told their story in a plain, straight forward manner, each one narrating facts which affected himself, and came within the scope of his personal observations. The representatives of the former testimony, which was very impressively given to the committee, will be stated in detail, and the latter be presented in a much more comprised and concise form.

Mr. Leiper, a respectable, wealthy, and extensive tobacconist, and a proprietor also of some stone quarries, which furnish considerable building stone to the masons in

Philadelphia, informed the committee, that he had been long and extensively engaged in a tobacco manufactory. He employs upwards of a hundred workmen, and the expenses of his business amount to about one hundred and sixty dollars a day; he believes that the dissolution of the Bank of the United States would produce a scene of distress in the seaports unprecedented in our country; that it would stop one-half of the master manufacturers and mechanics of the city; that, already, [confidence](#) was nearly destroyed; the debts due to manufacturers and mechanics were on open accounts, on which it was impossible to make collections to any amount of consequence; that the manufacturers and mechanics must, unless the state of things be altered, in a great measure stop their business, and dismiss their workmen, and very many of them sacrifice their property, or lose their reputation, and stop payment. Money, he said, could not be commanded, a short time since, however good the security offered; he generally met his engagements easily; he had, however, shortly before leaving home, occasion to remit to his correspondent at Richmond, where he was in the habit of having considerable quantities of tobacco purchased, fourteen hundred dollars; he had on hand towards this sum eight hundred dollars, and found considerable difficulty in procuring the remainder;[§] it had, however, been done since he left home, and remitted, with directions, however, to the agent, to make no more purchases, nor to enter into any new contracts for his account.

Mr. Leiper further stated, that the pressure for money, which recently existed in Philadelphia, has, for the moment, been relieved, although scarcely any sales or purchases are making, except at greatly reduced and destructive rates to the seller. This relief had been obtained, by the Bank of the United States agreeing to continue its full discounts to the 4th of March next; and from the State banks, calculating on the forbearance of the Bank of the United States, having liberally issued new paper. The [Bank](#) of Pennsylvania, of which Mr. Leiper has been many years a [director](#), recently let out, in one week, eighty thousand dollars of [new money](#); but if the Bank

[§] Confidence-economy, built on shifting sand. He wants to buy \$1,400 but only has \$800, and expects to pay the rest after he sells his cigars to his customers who have to pay real money (because he wouldn't take no notes from customers).

of the United States is not continued, this momentary relief would only extend the evil, as it would enlarge the [liabilities](#), and still further increase the pressure and distress, and want of money which must then arise.

About seventeen years since, Mr. Leiper felt hurt at the conduct of the Bank of the United States in rejecting his paper; he left the bank, and did his business elsewhere; since that time he had heard no complaints; he believed the concerns of the bank had been conducted fairly and liberally, and that discounts had been afforded to democrats as well as to federalists, to manufacturers and mechanics, as well as the merchants.

Mr. Leiper, sir, has been a zealous and unwavering partizan of the persons now in power, since the adoption of the federal constitution, and his testimony will not probably be thought entitled to less weight on that account.

Mr. Grice, a respectable master ship-carpenter, in large business, informed the committee that there are now building, in Philadelphia, 9,145 tons of shipping, a list of which he exhibited to the committee; a larger amount of tonnage than was ever before on the stocks in that city, and which, when finished, would cost about a million of dollars; that the whole of this shipping had been contracted for, except about 1000 tons; that the work was to be done and delivered in the course of the ensuing spring; that there were employed in the city, in connexion with this business, about 2,000 persons; that, owing to the apprehensions excited by the expected non-renewal of the charter of the Bank of the United States, great inconvenience had been already experienced by all classes of men in that city; that [confidence](#) was nearly destroyed; he could neither obtain money to pay his workmen or to carry on his business; that the former, unless a change took place, he must dismiss; that such had been the rapid growth of the navigation of the United States, it was difficult to procure good workmen, was highly important to keep them in the country, and would be extremely disadvantageous to have them drawn out of it; that already, owing to the great increase of ship building in Canada, agents were endeavoring to induce men to leave the United States for that country, where

they could earn more money than at home. That, if the bank was obliged to stop, the master ship-carpenters could neither borrow money nor collect their debts, and must of necessity dismiss their workmen, in which case very many of them would leave the United States, and probably never return. That he did not believe that more than two or three of the persons who had contracted for vessels, in the event of the dissolution of the bank would be able to fulfil their contracts; that, in consequence, the vessels would be left on the hands of the builders, who, on their part, would be unable to meet their engagements; and that the vessels must finally be sold for the most they would fetch, probably at half their value, to the great loss, and perhaps ruin of the builders.^{\$}

He had been himself largely in business, and had dealt for many years with the Bank of the United States; he had ever been treated liberally and kindly by it; he viewed himself indebted, in a considerable degree, for his present standing in society, to the accommodations he had received at that bank; still, in the course of his business, he occasionally took notes, at three, four, or six months, which, having a longer time to run than that at which the bank discounted, of sixty days, he found it convenient to convert into money; this, hitherto, he could always readily do, by carrying the notes to a wealthy merchant, for whom he sometimes did business, and who, hitherto, had always been willing to discount them for him, at bank interest; that, being cut off from his usual discounts at the bank, he recently endeavored to avail himself of this resource, but found it wholly shut against him; that the gentleman whose funds had, hitherto, appeared inexhaustible, would now afford no relief; confidence was destroyed; he knew not who was safe, he would make no new discounts, were the answers he obtained instead of money.

Mr. Grice stated that this out-of-door discounting had been of great service to the manufacturers and mechanics, as they could frequently get money from it, when they could not obtain discounts at the banks; he had reason to believe that the amount of money thus employed in the city, at the legal

^{\$} An economy built inside a credit-bubble and fueled by confidence-money ---and it is all the government's fault when the banker's harvest takes its course & toll.

and advanced rates of interest, was not less than seven millions of dollars; that this resource was now wholly cut off: they who had money would not loan it at any rate, and kept it on hand, either to secure it, or to derive an exorbitant advantage from the necessities and sacrifices of others. Mr. Grice believed that, with very few exceptions, all classes in Philadelphia were in favor of the renewal of the charter of the bank; without it, he believed great numbers of persons would be rendered bankrupts, and general distress, at least among the manufacturers and traders, would ensue.

Mr. Vogdes, a master house-carpenter, in extensive business, informed the committee there were, at this time building, about five hundred brick houses, in Philadelphia, two thirds of which belonged to the mechanics of the city, who are in the habit of purchasing lots of land [on credit](#), and who, with their own capitals, which, in many instances, are small, and by [borrowing](#) of the banks, or of individuals, and buying materials [on credit](#), are enabled to erect buildings, on the sale of which they depend for the means of meeting their engagements; that he himself at present owns buildings of this description, on the sale of which he had calculated, to the amount of \$130,000. He employs 100 workmen.

Mr. Vogdes stated he had been in the habit of receiving a moderate accommodation at the bank; he had ever been well treated by the bank; the directors had recently reduced his notes, but not in so great a degree as the State banks had done; that the expected termination of the charter of the Bank of the United States had greatly incommoded him, and others probably more; it had nearly suspended all business among the manufacturers and mechanics; it had stopped all sales of real estate, which he does not believe could now be effected at so high a rate, within 30 per cent. as the sales could have been made at some time since; he had himself engaged to sell two houses, one for \$10,000, the contractors for which had fallen from their engagements under one small pretence or another, but, really, as he believes, from the change of times, and the difficulty there existed in procuring money to meet the engagements even of the most wealthy persons; he himself had a note of one of the most respectable and undoubted

men in the city; he offered it at three banks, but could not obtain a discount on it, and was finally obliged, in order to meet his engagements and pay his workmen, to sell it at one and a half per cent. per month discount; he knew a broker who had notes to the amount of half a million of dollars laying by him for sale, which were considered good, but which he could not dispose of at any rate; he had a mortgage which he was constrained to sell at 18 per cent. for twelve months; and his son, to pay his workmen, was obliged to have his note discounted on the best terms at which it could be done, which were at 2 per cent. per month.

Mr. Vogdes is concerned in some rolling and slitting mills, which work about 500 tons of iron annually. The proprietors have now on hand about 100 tons of manufactured iron; commonly it is very saleable, at present, owing to the causes that have been mentioned, there is no demand for it. It is usual for manufacturers of iron to lay in their stock when the importations are largest, generally late in the autumn; this, several of them have done. The price is usually from \$108 to \$120 per ton; it has, however, fallen, from the pressure of the times, to \$85 per ton. This difference the manufacturers must suffer, which, in addition to the want of sale for their manufactures, and the other disadvantages under which they labor, if relief be not speedily obtained, must ruin most of those who have not large capitals to enable them to sustain the shock.^{\$}

He does not believe that political considerations enter at all into the direction of this bank. He has no knowledge of a well founded complaint of any mechanic, democrat or federalist, not receiving a discount, if entitled to it, and the circumstances of the bank would admit of it. He stated that this was no party question; that, with a very few exceptions, all classes in Philadelphia are in favor of the renewal of the charter of the bank. He is authorized to say, that the person who now has, and for the last twelve months has had, the

^{\$} Confidence-bubble economics and economy, with all its trimmings.

You have no capital, but you start a business and expect the bank to fire up the printing-press and supply your enterprise with confidence-money. And when the chickens start coming home to smell the coffee, you blame everyone except the credit system and its boom-bust cycle.

largest accommodation at the bank, is one of the best known, and most leading democrats in the city. If the charter be not renewed, it is his opinion the most serious and general distress will be the consequence.

Mr. Ord, a respectable rope manufacturer, stated to the committee, that he worked up annually, in his manufactory, about one hundred tons of hemp; that he seldom wanted discounts; when he did, he obtained them with facility from the Bank of the United States, where he had been always well treated, and the business of which, he believed, had been conducted fairly and liberally, without reference to any party or political views whatever. He had hitherto been able to carry on his business with ease. He had large debts out, but now all confidence was destroyed; he could collect nothing, nor could he, without receiving his debts or borrowing money to meet his engagements; and if times did not change, he must stop his business and dismiss his workmen, as must most of the other manufacturers of cordage in the city; that at present all business was at a stand; no sales could be effected. Hemp, which shortly since was at \$350 per ton, had fallen to \$250, without finding a market. He had recently bought some at \$200 per ton, which had sustained so small a degree of damage as to make it scarcely worth naming. Kentucky yarns were also unsaleable, although there were never so many ships on the stocks in Philadelphia, and the cordage for which must be principally manufactured from these yarns, which, but for the present state of things, would have risen rather than declined in price, as the vessels building would have been rigged in the ensuing spring; that the cordage for them would have been wanted nearly at the same time, and could be made much sooner from yarns than from hemp, which would have given them the preference.

Mr. Ord fully concurs with the other gentlemen in the distress which would be produced in consequence of a dissolution of the charter of the bank.

Mr. Foering, an intelligent and respectable currier of leather, informed the committee that he was in the habit of purchasing domestic and foreign hides to a large amount, which, after manufacturing, he sold to his customers in the

interior, and to the boot and shoe makers in the city, generally on a credit of six months; which, however, frequently extended to twelve months before he received his money; he also ships considerable quantities of leather to other parts of the United States. There are about forty curriers in Philadelphia; and from two to three thousand persons, including those who work the leather, are dependent on this manufactory in the city; a considerable number of whom, he believes, (unless some relief is obtained) from the present scarcity of money, will be greatly distressed, and be dismissed from employment. He has kept his account principally with the Bank of the United States; has always been well treated, and has derived a great facility in his business, both to the north and south, by the bank collecting his debts for him, and passing the amount to his credit in Philadelphia, free of commission and the risk of remitting money. This, he believes, is generally done by the bank for the merchants, manufacturers, and mechanics, who may request it, and can not be done by the State banks, because they have not branches in the different seaports of the United States, even if they had the disposition to do it. He has hitherto been able to command, with ease, as large an amount of money as his business required; at present, he cannot collect his debts nor sell his stock, nor get discounts at the banks. Having failed to do it at the Bank of the United States, he applied to a State bank, where he had made some deposits, but without success.

Mr. Foering states, that confidence is beginning to be impaired even in bank paper. He shortly since bought some hides of an opulent farmer, with whom he had dealt before, and who had always, without objection, received his payments in checks or bank bills; in the recent sale he, however, declined at first to receive them; after some persuasion, he did take them, but immediately went to the bank and demanded the money and took it home with him.^{\$} Very many of the manufacturers and mechanics have accounts open with the Bank of the United States. He has

^{\$} And if everyone had done that from day one, the credit-bubble wouldn't have been inflated, and ye wouldn't be in the predicament that you are in.

found discounts more readily obtained there than at the State banks. When he left Philadelphia he had no personal knowledge of any one director of the banks. He has heard no complaints for many years, of the conduct of the bank; the affairs of which he believes to be liberally and honorably conducted. He believes the only consideration with them in discounting, is, whether the paper which is offered be good or bad, without reference to political principles or conduct of the party offering it.

Mr. Foering asserts, that, in Philadelphia, this is no party question; nearly all classes wish for a continuance of the bank. He does not believe there are hundred master manufacturers and workmen in the city, who would not readily have signed the memorial, had there been time for it. The subscription was very hastily filled up, or, although it contains the names of between five and six hundred master manufacturers and mechanics, and not one name of any other description, it would have included a large number of others. He carried round one of the memorials, and met with scarcely any one who refused to sign it. He does not believe one out of a hundred would object to it; it was not true that it was a party question; he was a democrat ---the whole delegation were democrats; some of them were from the very focus of democracy, the Northern Liberties; and yet they were anxious the charter of the Bank should be renewed; indeed, if it were not, or some other relief obtained, a great many of the mechanics and manufacturers must stop their business, dismiss their workmen, and some of them be ruined, as they could now, neither by loans nor by collections, get money enough to meet their engagements and pay their expenses. The journeymen and laborers have not yet felt the pressure; because they have been kept in employ from the hope that business and confidence would be renewed, and money again become as plenty as it had been. Should this not be the case, the clamor and distress will then be heard and felt more universally and extensively.

This, sir, was the narration which was most impressively delivered to the committee. In the sentiments of the delegation there was no variance; all the members of it stated the anxiety

and wish for the renewal of the charter which pervaded nearly all ranks in the city of Philadelphia. They united in the opinion that party considerations did not mingle with the question; that, if the bank were permitted to run down, they would, individually, be great sufferers; that a scene of embarrassment and distress would overwhelm great numbers of the citizens; that the State banks could afford no relief, having already extended their discounts to the utmost limits of prudence, calculating on the renewal of the charter, or the forbearance of the Bank of the United States; if this were not obtained, the mischiefs they have described must be experienced, and the manufacturers and mechanics would fall the first sacrifices; for the merchants were in the habit, either by auction or otherwise, of selling their property for endorsed paper or collateral security, while the manufacturers and mechanics were left exposed on a single name, as it never was their usage to demand security, nor could they do it; were they to attempt it, they would give offence to their employers, and lose not only their present, but all future business from them; and, of consequence, severely as the merchants would suffer by this unexampled stoppage of business, the manufacturers and mechanics would feel it still more seriously, and numbers of them undoubtedly be ruined.

A delegation from the merchants of the city of Philadelphia, composed of very respectable men, and equally divided as regards an attachment to the two great political divisions in our country, were heard before the committee. They confirmed the representations that had been made as to the conduct of the bank; the absence of party influence from its management; the interest which was excited for its continuance; the stagnation of business and the prostration of credit and all habits of punctuality, which they believed would ensue from its dissolution. They also stated the serious loss it would occasion to the Government from the inability of the importers to pay their bonds, and their disbelief in the ability of the State banks to afford any permanent relief. These gentlemen gave it as their opinion that the more liberal these banks were now, the worse would be their situation when the Bank of the United States ceased its discounts; that if the

affairs of that bank were speedily wound up, the State banks could not meet their engagements and pay for the notes they had in circulation, and that they must, of course, stop payment as well as the merchants; that, in such a state of things, the depositors would withdraw their deposits instantly, and the bank notes which were in circulation would immediately return upon the banks, when they would be unable to pay them; that, already a considerable degree of suspicion was beginning to prevail of the security of bank paper; that there had been recently brought to the Bank of North America notes which had been issued twenty years before, and were supposed to have been lost, but which distrust had again brought to light; that neither navigation, nor merchandise, nor exchange, however unexceptionable, could now be disposed of, except at great sacrifices; that flour had fallen in price from eleven to seven and three-quarters of a dollar, or eight dollars per barrel; that the house to which one of the gentlemen belonged, one of the first in point of standing in the United States, had recently received orders for the shipment of 30,000 barrels of flour, which, from the uncertainty of finding funds or procuring purchasers for bills of exchange, as heretofore, lucrative as was the commission, they had declined to execute. That it was the belief of these gentlemen, that the dissolution of the bank, and the collection of its capital at so unfortunate a period as the present, when so much property was otherwise absorbed and sequestered abroad, would be attended with extremely injurious consequences to the commercial, agricultural, and manufacturing interests, and to the revenue and prosperity of the country.

Sir, I shall neither trespass further upon your time, nor weaken this testimony by any comments of mine. I have now only to ask the indulgence of the Senate while I trouble them with a few additional observations, and those chiefly of a personal nature. Most certainly, sir, I am not acting under the bias of any sinister influence or partiality in advocating the renewal of the charter of this bank. I do not own a share of the stock, nor have I owned one for a considerable time past, nor do I owe to the institution a dollar. A few years since, I

was in the direction of one of its branches ---the bank in Boston--- and I was left out of it with very little ceremony; not because I had abused the confidence reposed in me, for at the time I was left out of the direction I did not owe to the bank a single cent, either on my own account, or as surety for another, and my accommodation at the bank had never been large. I was then young, and possessed of but little property, and to enable me to exercise an independence of action, which I hope ever to preserve, I thought it proper to abstain in a considerable degree from accommodations to myself, in order that I might be enabled, if necessary, more freely to check undue accommodations to others. Still, sir, this was a conduct towards me not calculated to produce any peculiar partiality for the institution. It is true I was subsequently offered, from a source which I respected, a seat again at the Board of Directors, with the understanding that I should retain it as long as I pleased.

This I declined, and should ever have declined it. Although from these circumstances it cannot be expected that I should feel any particular regard for the bank, yet still I am bound to say I feel no hostility towards it. I believe it has been an extremely useful institution; and, from a personal knowledge of the management of the affairs of the branch bank at Boston, I freely declare, that, in my opinion, it is impossible for the concerns of any moneyed institution to be conducted with more correctness, integrity, and impartiality; with more discretion towards the public, or greater safety towards the corporation which created it. I know the directors. They are honorable and estimable men; and at the head of the bank is a gentleman, an Essex junto man, perhaps, he may be called, who would grace any station in any country.

Sir, I have received from the most numerous branch of the Legislature of Massachusetts, a request that I would oppose the renewal of the charter of this bank. I receive the request, sir, with all the deference and respect which is due from me to an expression of the opinion of that honorable body. It has induced me to examine my sentiments, to reweigh, and deliberately reflect upon them. Having done this, and having come into office without an intimation of a wish

on my part for public life, without a single stipulation as to my political opinions, or an indication of the course I should pursue, I can only say, I should not act, on a question in which I considered the public interests as implicated, in opposition to the convictions of my own mind, deliberately formed, in consequence of the request, or, if you please, instruction, of the entire Legislature of the State which I have in part the honor to represent, much as I am bound, both by duty and inclination, to respect it, nor in consequence of the request or instruction of all the congregated legislatures on earth. I believe the renewal of the charter of the bank will avert many evils, and I shall vote for it.

It will probably be said, sir, that the distresses which will be incident on the dissolution of the bank, have been greatly exaggerated; that a city in this vicinity is ready to meet the consequences, and to set them at defiance. Let it be recollected, that, in the five New England States, a country for which it is both my pride and pleasure to avow a marked partiality, we have but one branch of the Bank of the United States, and that with a capital of only 700,000 dollars. Surely, then, if a single city, with a population of thirty or forty thousand persons, can meet these consequences, we can sustain them; but we shall undoubtedly suffer much inconvenience, not, however, so great a degree of it as any other district on the seaboard of the United States.

It is possible, sir, that apprehension may have magnified the evils which are to flow from the dissolution of the bank; it is possible, in this untried state of things, there may be found a power of expansion in the moneyed market of the country, which will be equal, or nearly equal, to the unexpected demand that may be made upon it. Should this be the result, I should be extremely gratified to have been mistaken. I should rejoice in my own disappointment.

Thursday, February 14, 1811.

Same motion [to strike out the enacting clause].

Mr. Giles spoke at great length in favor of the motion.

MR. GILES.¹⁹ Mr. President: It is with great reluctance that I find myself compelled to enter into the discussion of the subject now under the consideration of the Senate; but the observations which fell from the honorable gentle man from Georgia, (Mr. Crawford) were of such a character as to impose on me an irresistible obligation to present that view of the subject which has resulted from the best reflections I have been enabled to bestow on it. This obligation arises from the very high respect I entertain for the Legislature of the State I have the honor to represent the great respect I feel for the gentleman who made the observations, as well as from the respect which is manifestly due to myself. In executing this unpleasant task, I labor under circumstances of peculiar embarrassment. This embarrassment arises from a conviction, that the views of the subject now proposed to be exhibited will disappoint the expectations both of the opposers and the favorers of the bill; and that they will not be acceptable to either. I shall not, however, in this instance, depart from my invariable habit, when urged by duty to participate in debate before this honorable body, of disclosing, in the most undisguised manner, my real opinions upon the whole subject, from any consideration of political difficulties or inconveniences which may consequentially affect myself.

In the first place, I find myself called upon to oppose a law on constitutional grounds, which has been in existence for nearly twenty years; and, during that period, I am compelled to admit, has been acquiesced in by the several State Governments, as well as by the General Government, and its republican administrations. It is peculiarly irksome to me to question the constitutionality of a law which has been thus and so long acquiesced in, because it tends to give the character of instability to the laws generally; and in my judgment, tends also, in some degree, to impair the sacred character of the laws, and of course, to lessen their efficacy. In a government like ours, where the laudable boast of every citizen is, that he lives under a government of laws, and not of men, no subject should be touched with more caution and delicacy than one which questions the validity of the laws, lessens the confidence of the citizens in them, or impairs the obligation of obedience to them. Yet, Sir, the course of observations I propose to make, may have some of these tendencies, which I should extremely regret, and this apprehension, of course, produces embarrassment. Connected with this idea, is another circumstance of embarrassment. I cannot help observing the inordinate zeal manifested by the opposers of this bill, evidently resulting from a belief that its rejection will lessen

the powers of the Federal Government. Although it may be properly directed in the present instance, yet, I think I have seen, and fear I may hereafter see, the same spirit directed against some of the powers and proceedings of the Government, which I have deemed indispensable to its own preservation and its beneficial efficacy toward the People. It may, perhaps, be thought, by some, not becoming in me to say, that I have not been an inattentive observer of the progress of this Government for twenty years; and more particularly, since the republican party came into power. Some of the scenes through which I have passed, have produced an impressive influence on my mind. Such is the nature of the Government, that its administration will vibrate from one principle to another, and it will always require great wisdom to keep its oscillations from wandering too far.

Whilst those who preceded us in power, endeavored to legislate into the constitution an unnecessary constructive energy, leading to what has been called consolidation, it appears to me that we have taken too much the opposite course, leading to disunion and dissolution, by depriving it constructively of its legitimate, necessary, and proper powers. If this course should be unfortunately persevered in, it requires no spirit of prophecy to foresee, that the Government will fall to pieces from the want of due energy in the administration of its legitimate powers; or that some extraordinary means must be resorted to for its resuscitation. When we cast our eyes abroad, and see the aggressions committed on our rights by all the belligerents, &c; when we reflect that we cannot calculate upon a perpetual exemption from wars and other political calamities, the common lot of all nations; when we look at home, and see the State Governments interfering with and controlling the proceedings of the General Government, even in relation to measures directed towards these aggressing belligerents; when we look around us at home, and see every where me inveterate struggles amongst political partizans for political power; when we recollect the number of choice spirits amongst us, not content with the dull pursuits of civil life; when we look at our extensive defenceless frontier, almost without limits, and see, almost every year, ambitious enterprising individuals, with hostile arms in their hands, raised in defiance of the authority of the United States, &c. &c., it appears to me wonderful that gentlemen should be delighted with curtailing the constitutional powers of the Government, and enfeebling its necessary energies. It is the more wonderful, when we see the same gentlemen, who seem to consider every curtailment of power as an individual triumph to themselves, the most clamorous against the Government for not taking a manly attitude in repelling foreign aggressions, &c. &c. It appears to me, sir, we often see the same gentlemen, with the best and most patriotic intentions, indulging in these irreconcilable opinions. This is not the first time I have endeavored, in a solemn and impressive

manner, to present this subject to the view of the party now in power. Hitherto my efforts have been unavailing.

Let me now indulge a hope, that these reflections will meet with due consideration from those now entrusted, by the People, with the management of their dearest interests. If inducements to these observations were called for, surely sufficient could be found during the republican administrations. I need only call your attention, sir, to the lessons afforded in the inefficacy of our measures to repel foreign aggressions, to assert our rights, and do ourselves justice, &c. and the causes which have led to this inactivity and feebleness of the Government. They will not be found in any defect of powers in the constitution, because, in that respect, they are unlimited; it is because gentlemen, from various weak and groundless alarms and apprehensions, have been unwilling to exert the legitimate energies of the constitution for those great objects. They have theorised and criticized themselves into such fears of the undue exercise of power, that they will not duly exercise it when indispensably necessary to the national character and interests. It is not my wish to extend the powers of the constitution beyond the fair and candid interpretation of its meaning; because, that, in my judgment, it will be sufficient for all salutary purposes. I only regret the unwillingness of gentlemen to act up to that point, and the probable consequences resulting from that indisposition.

I have also to unite with the gentleman from Georgia (Mr. Crawford) in expressing my regret, that, in discussing this subject, both within and without the walls of Congress, and particularly in various republican news papers, an unwise spirit and zeal should have been manifested, which, being more repulsive than persuasive, have, I verily believe, tended to defeat their own object, and to put at hazard the rejection of the bill. Why, on this subject particularly, should we witness such a display of intolerance and denunciation? Why the illiberal ascription of improper motives to the republican members who support the bill? Can any good result to the nation, to the republican party, or to the favored side of the question, by this course of conduct? May it not produce an injurious influence on all? The subject certainly presents fair grounds for a difference of opinion amongst individuals, and even amongst republicans, without searching for the causes of this difference in corrupt motives. Why, then, upon this particular occasion, should the free exercise of opinion be hunted down by a spirit of intolerance or denunciation? It was this spirit which, more than any other cause, blasted the hopes of the republican principle in France, and, if indulged in to excess, will destroy it in any other country upon Earth.

In the due administration of a republican government, truth and right alone ought to be sought after, and they can only be found by

leaving the mind to free investigation; by guarantying to all its faculties, the most perfect exemption from all terror and alarm. I hesitate not to say, that, in my judgment, this spirit, if indulged in, will become more dangerous to the due administration of this Government, more deleterious to its proceedings, than the adoption of any one single measure, however unwise or impolitic even than the renewal of the charter of the Bank of the United States for twenty years which now seems to be the cause or the pretext for exciting and stimulating this unfortunate spirit. I am ready to admit, too, that I have never seen this spirit displayed with more positive assertion and bold denunciation upon any question than upon the present. This circumstance induced the gentleman from Georgia (Mr. Crawford) to indulge himself in severe and most sensitive invectives upon this topic; and, in my judgment, not without cause. But it would have afforded me great pleasure, if the gentleman could have prevailed on himself to have viewed these proceedings "in the calm light of mild philosophy," and not to have presented to the Senate an example in himself, in appearance at least, of the passions and prejudices he so justly reprehended in others. I think I do not mistake myself, Mr. President, when I profess to enjoy the most entire exemption from this baneful spirit of intolerance; when I profess to feel the greatest respect for the gentlemen who differ from me on this occasion; and for their motives, when I profess to extend all possible indulgence and forbearance towards the opinions of those gentlemen, and feel, at the same time, conscious, that I shall stand in need of the same liberality myself, from both sides of the question. Indeed, sir, I would not deign to accept a victory in argument, founded solely upon the ascription of improper motives to my antagonist. It is my intention to give the arguments of the gentlemen on the other side of the question the most impartial and attentive consideration. I know the gentlemen are personally entitled to it, and their observations merit it.

The honorable gentleman from Georgia, (Mr. Crawford) who reported this bill, as the chairman of the committee to whom the subject was generally referred, excited not a little surprise in my mind, by the prefatory remarks which fell from him in support of it. The gentleman prefaced his arguments by observing, that "it had latterly become the fashion to eulogise the constitution of the United States; and that, whenever he heard lavish encomiums applied to it, he could not help apprehending mischief." I acknowledge I could not comprehend the bearing of this remark upon the question under discussion. I, sir, have long been in the habit of venerating the constitution, and have often expressed my admiration at the wisdom of its provisions; and I really had hoped that I might have been indulged in these sentiments and prepossessions, and even the expression of them, upon proper occasions, with out exciting in the mind of any gentleman

apprehensions of mischief; nor can I divine what species of mischief the gentleman apprehends from that cause. Mr. President, when we look over the whole world known to us; when we particularly cast our eyes over that part of it with which we have the most intimate relations; when we see the rapid strides which despotism is making over the whole human race; when we observe the various and powerful means now in use, to rivet its immoveable dominion upon mankind; when we reflect that the constitution of the United States now affords the only practical experiment upon the republican principle, and the only and last hope for the preservation and extension of the liberties of man; is it wonderful or alarming that we should feel and express some partiality, and even veneration, for an instrument of so peculiar a character, or should even endeavor to teach others to venerate, to cherish, to support it? ---an instrument, whose provisions at least exempt us from the general scene of despotism, and may eventually extend their blessings to the whole human race. Or, if, in dwelling upon the wisdom and importance of its provisions, we might pass over some possible defects, without scrutinizing them with an hypercritical eye, might not the omission be indulged without producing animadversion or censure? Sir, we all venerate the republican principle. I know the gentleman from Georgia (Mr. Crawford) does; nor do I pretend that my devotion to it is greater than his; but, sir, I have given the greatest attention to the observations of the gentleman upon the constitution, and I can now say, that my veneration for the instrument, and admiration at the wisdom of its provisions, are not at all impaired, nor diminished, notwithstanding the gentleman's criticisms, &c. I will now, Mr. President, endeavor to exhibit the general character of the constitution; to point out the mode for its correct interpretation; and apply it to the subject now under consideration. In doing so, I propose to follow the course of observations made by the honorable chairman of the committee who reported the bill.

The gentleman proceeded to remark, that, in taking a review of the constitution, he found general as well as incidental powers enumerated therein. I did not see the precise application the gentleman intended to make of this remark, but I have been induced to review the constitution in reference to this subject, and it does appear to me, that the classification and definition of powers is as well arranged as human wisdom could devise. I know that nothing is perfect, which is the work of man; that no language is capable of perfect definition. But, as far as definition can be drawn from language, I conceive the constitution exhibits as perfect an example as is in existence. In the next place, the gentleman remarked, that there was a number of cases in which Congress had departed from the particular enumerated powers in the constitution, and had resorted to implication, or construction, for the derivation of its powers. The remark is perfectly correct, and I am very

ready to admit that there is no such thing as carrying into effect enumerated powers in any instrument whatever, without the intervention of certain derivative and implied powers. But, if the gentleman had succeeded in showing that there had been aberrations by the Congress of the United States, from the enumerated powers of the constitution ---would he think it correct to use those aberrations as precedents for still further aberrations? Ought they not rather to be considered as mementoes on the part of Congress, to induce them to tread with more care, and, if they find that their former errors could not be supported by a fair and candid construction of the constitution, to restrain the laws within its wholesome provisions? Certainly, that is the use to which the history of errors, presented by the gentleman from Georgia, ought to be applied.

But, before I proceed to examine the subject with more accuracy, I cannot avoid expressing my surprise at another observation which fell from the gentleman. The gentleman observed, that the argument drawn from the distinction between ends and means was "incomprehensible;" and he went so far as to call it "nonsensical jargon." It is not only comprehensible to me, sir, as I conceive, but, in my opinion, is the only way in which a just construction of the constitution is to be attained. This results from the peculiar nature and organization of the instrument. Permit me here to endeavor to illustrate my idea by a reference to the constitution itself. The constitution is an instrument which grew out of the situation of the United States, at the time of, and preceding its adoption; and, to show that the constitution recited the great objects of its formation, and then prescribed the means for carrying them into effect, I beg leave to refer to a part of the instrument itself. The preamble, like all other preambles, was designed to express the objects of the instrument, or the ends to be effected by its provisions. "We, the People of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America." What is the plain language of this preamble? The answer is obvious. That certain great ends, or objects, are here proposed to be effected. In what mode, or by what means, are they to be effected? The preamble tells you, sir, "by establishing this constitution, for the United States of America." That is the mode in which these great ends are proposed to be effected; and the body of the instrument prescribes the means, which were deemed necessary and proper to the effectuation of these ends. This subject will be better understood by throwing the mind back to the period of time when this constitution originated, and reviewing the peculiar political situation of the United States then, and for sometime antecedently thereto.

At the time, and antecedently to the establishment of the present constitution, the existing State Governments were in possession of all the powers of sovereignty, subject only to feeble and inefficient articles of confederation, without the means of executing their own will; and resting for its execution solely on requisitions upon the respective States, which might either comply or refuse to comply with such requisitions, at their discretion. A non-compliance was almost invariably the result of State deliberations; and hence the feebleness of the old confederation. The present constitution was adopted as the remedy for this great and alarming evil. Without it, disunion and ruin to the States would have been the inevitable consequences; because, upon actual experiment, the States were found utterly incompetent to the due administration of all the powers of sovereignty entrusted to their management. The reason of this incompetency was, that some of the most important powers of sovereignty inherently possessed a geographical influence beyond the geographical limits of the several States, individually; and their jurisdiction could not transcend their geographical limits. Of this description of powers is the power to declare war, &c. to regulate commerce, &c. &c. and all the other enumerated powers of the constitution. In consequence of the conflicting systems adopted by the several States in relation to some of these powers, which were then in practical operation, particularly in the conflicting regulations of commerce, the States were getting into the most serious collisions, &c. &c. The formidable evils necessarily growing out of this state of things required a formidable and competent remedy. The great subject for the contemplation of every reflecting mind in America was, what that remedy should be ?

The wise framers of our admirable constitution, after great deliberation, conceived and executed the only practicable expedient. It consisted in separating the powers of sovereignty; in establishing a General Government, and conferring on it all the powers of sovereignty, whose geographical influence was found co-extensive with the geographical limits of the United States, and reserving to the State Governments, respectively, those powers which were of a more local character, and which possessed no influence beyond the limits of the States, respectively. And also to confer on the General Government "all the means necessary and proper" for executing its own laws in relation to these enumerated powers, without any dependence upon requisitions from the respective State Governments for this indispensable object. The idea was a grand one, and executed with an admirable simplicity, and the most consummate wisdom. Hence it appears, that the great object of the framers of the constitution was, to establish a general or federal government, and to confer on it all the powers of sovereignty, which, in their nature and character, possessed an influence co-extensive with the United States; and to reserve to the previously

existing State Governments, all the powers of sovereignty of a more local character, and whose influence did not extend beyond the geographical limits of the States, respectively, and therefore could be rendered completely subservient to State jurisdiction and management. These are the means prescribed in the constitution, for effecting the ends expressed in the preamble. To the administrators of the General Government, the framers of the constitution have said, We give to you all the powers of sovereignty of general character; and to the administrators of the State Governments, they have said, We reserve to you all the powers of sovereignty of a local character. I verily believe, that, if those various governments should be administered with the wisdom with which this separation of powers was made in the body of the constitution, the People of the United States will not be disappointed in the great and interesting objects proclaimed in its preamble. But I cannot help expressing some apprehensions, that, from an incorrect understanding of the constitution; from an unwise spirit of jealousy; a disposition to strip the Government of its necessary and proper energies, &c. &c. the administrators of the Government may not only disappoint the just expectations of the People in this respect, but may lead to incalculable political mischiefs and disasters. This arrangement was, in my judgment, indispensable to the preservation of the republican principle, and all-important to the dearest interests of the People of the United States. As far as the practical experiment has been carried, it has been attended with the happiest effects. I still hope for the best in its future operations; but I also hope I shall be pardoned for expressing some fears, arising from various manifestations of imbecility in measures relating to our internal as well as external concerns. From this short history of the origin of the constitution, and the causes which produced it, it evidently appears that the General or Federal Government is, in its nature and character, a government of enumerated powers, taken from previously existing State Governments, enumerated, and conferred on it, reserving all unenumerated powers to the State Governments, or to the People in their individual capacities. But if any doubts had existed upon this subject, two amendments to the constitution, growing out of some jealousies lest a contrary interpretation should be given to the constitution, have been adopted, which ought to put this question to rest for ever. The 9th and 10th articles of amendments to the constitution are as follow:

“The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others, retained by the People.” “The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People.”

Now, sir, can language be more explicit than this, in declaring that this charter contains certain enumerated powers, and that all not

enumerated are reserved to the States or to the People? There is one article reserving rights to the People, and afterwards another article reserving them to the States and to the People.

While on this subject, I beg leave to read a clause in the constitution, which I find among the enumerated powers, and which has been construed by some, as intended to convey a general grant of powers amongst the enumerated powers: "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States." The words, "and to provide for the common defence and general welfare," have, by some, been considered as conveying a general grant of power. Nothing is necessary to show that this is not a fair and correct construction of the constitution, but reading it with attention. These terms contain no grant of power whatever, but are used to express the ends or objects for which particular grants of power were given. Paying the debts, and providing for the common defence and general welfare, are great objects, intimately connected with the particular grants of power which are given for their effectuation. And, without these particular grants of power, it would not have been possible for Congress to effect them. The framers of the constitution have simply selected some of the objects expressed in the preamble, and declared, that, to effect them, and to pay the debts of the United States, were the considerations which induced them to give to Congress the "power to lay and collect taxes," &c. Thus, taxes are to be laid, &c. "to pay the debts, and to provide for the common defence and general welfare." Could they have chosen a more appropriate phraseology? The plain language, to Congress is, "You shall have power to lay and collect taxes, to pay the debts," &c., and to provide for the common defence and general welfare, or, in other words, for the purpose of paying the debts, &c. and of providing for the common defence and general welfare. These words do not contain a general grant of powers, but express the objects of a particular grant of powers. The framers of the constitution could not have done an act so absurd, as to make a general grant of powers amount an enumeration of specified powers.

I will now, Mr. President, proceed to examine those instances which the gentleman has presented, of the supposed aberrations of the Congress of the United States from the enumerated powers: and I think it will not be difficult to show that there is not a single instance quoted, but which is deducible from a fair and correct interpretation of the express words of the constitution, giving them their common and appropriate meaning.

The first instance presented to our consideration by the honorable gentleman from Georgia, (Mr. Crawford) of the exercise of a power by Congress, not enumerated in the constitution, was the erection of light houses. The gentleman from Massachusetts, (Mr. Lloyd) to whose

dispassionate observations I listened with great pleasure, superadded the instance of the erection of custom-houses. On these, both of the gentlemen seemed to place great reliance, as cases in point with the one under consideration. Both these powers I conceive are given to Congress by the express words of the constitution; but if I should be mistaken in this idea, they are certainly comprehended as incidental and subservient to, or, in other words, "necessary and proper" for, carrying into effect some of the enumerated powers. The express words of the constitution give to Congress the power "to lay and collect taxes, duties, imposts, and excises," &c. &c. "To regulate commerce with foreign nations, amongst the several States, and with the Indian tribes;" "to exercise exclusive legislation in all cases whatever, &c. over all places purchased by consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings." From these clauses of the constitution, taken in connexion with each other, I think Congress possesses the power to erect light houses and custom houses by the express words of the constitution: for both of these descriptions of houses must necessarily be included within the term, "needful buildings;" or, the only construction which is at all applicable to these cases, is that needful buildings is the general term, and light houses and custom houses are particular instances, or examples, under the general term; or, if I may be so allowed to express my ideas, needful buildings may be considered as the genus, of which light houses and custom houses are particular species. The reason, with the framers of the constitution, for using this general term, is obvious: It was, because it was impossible for them to foresee all the particular species of needful buildings which might become necessary to the salutary operations of this Government, in the course of its complicated and due administration; they, therefore, wisely left that subject to the discretion of Congress, restrained and limited, nevertheless, by the requisition of the consent of the Legislatures of the States, respectively, in every case proposed for the exercise of this discretion. That this is a plain and correct interpretation of the constitution, is evinced by the concurrent opinions of every Legislature of every State which has heretofore ceded lands for any of these objects; and it is to be remarked, that Congress has never attempted to erect any of these buildings without the constitutional requisition of the consent of the States, respectively. But if this term, "needful buildings," had not been expressed in the constitution, I should not hesitate to admit, with these gentlemen, that the erection of light houses and custom houses might properly be deduced from the power to lay and collect taxes, duties, &c. &c., and from the power to regulate commerce, &c. which are particular grants of power enumerated in the constitution. Because custom houses are appropriately necessary to the collection of duties, and have always

been deemed indispensable for that object, as are light houses to the due regulation of commerce.

These two powers are indispensably connected with, and subservient to, particular enumerated powers, and are, therefore, amongst the means which are necessary and proper for their effectuation; and as such, are given to Congress by the express words of the constitution; which are, Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof." From this course of interpretation, the gentlemen, reasoning from a supposed analogy, have asked, if Congress can derive the right to erect light houses and custom houses from their necessary agency in effectuating the particular powers to which they are said to be appendant, or appurtenant, why may it not, in the same way, derive the right of granting charters of incorporation for the same objects? Or, in other words, if Congress can constitutionally erect custom houses for the purpose, or as the necessary means, of collecting duties, why may it not establish a bank for the same object? &c. The question is admitted to be a fair one; and if a clear distinction cannot be made in the two cases, it will be admitted, either that Congress may constitutionally establish a bank, or, that it has heretofore transcended its powers, in erecting custom houses, &c. A clear and most obvious distinction appears to me to exist in the cases suggested by the gentlemen to be analogous, arising from the striking difference in the nature and essential character of these powers. A custom house is, in its nature, incidental and subservient to the collection of duties. It is one of the common, necessary, and proper means to affect that end. It is believed that, in no commercial country in the world, are duties collected without them. Besides, the erection of custom houses does not involve in it the exercise of any other higher or consequential powers. The same remarks will apply to light houses, as amongst the common, necessary, and proper means for the regulation of commerce, &c.

Is the incorporation of a bank of this character? It is not amongst the common, necessary, and proper means of effecting either of the foregoing enumerated powers, nor of any other enumerated in the constitution; still less is it incidental or subservient to any of the enumerated powers. It wants that connexion, affiliation, and subserviency, to some enumerated power, which are clearly pointed out in relation to the two powers to which it has been said to be analogous. Besides, does granting a charter of incorporation to a bank involve no other higher or consequential power, than merely erecting a needful building for collecting duties? &c. It certainly does. It involves the power to grant charters of incorporation generally; and in this respect, principally, its character is essentially different from both of the powers

cited by the gentleman. The power to grant charters of incorporation is not an incidental, subordinate, subservient power; it is a distinct, original, substantive power. It is, also, susceptible of the clearest definition; and not being amongst the enumerated powers, it seems to me that Congress can have no fair claim to its exercise in any case. If Congress had been expressly authorized to grant charters of incorporation generally, then, granting a charter of incorporation to a bank would have been an instance, or amongst the means, of carrying into effect that enumerated power; and would have been as much connected and affiliated with it, as is the erection of custom houses with the collection of duties; but the power to grant charters of incorporation generally, not being expressly given in the constitution, no particular instance involving the exercise of that power can be inferred, by a fair and candid interpretation of the instrument. I do not mean to exaggerate the consequences which might result from an assumption of the power to grant charters of incorporation, &c. It is sufficient for me to say, that it is a power of primary importance; that it involves as many incidental powers in its exercise, as anyone of the enumerated powers; that it is equal, if not paramount, to any; and therefore, in my judgment, cannot be assumed, by fair construction, as incidental and subservient to any; and, of course, not as amongst the necessary and proper means for carrying any into effect. In fact, in its nature, it does not, in the smallest degree, partake of the derivative, incidental character. It is original, substantive, distinct in itself, and susceptible of the plainest definition. Hence, whilst I am willing to admit that a power, which is, in its nature, incidental and subservient to any enumerated power, and also amongst the necessary and proper means for carrying it into effect, may be exercised by Congress without the express words of the constitution, I should be very unwilling to admit that Congress should also exercise a power neither incidental or subservient to any of the enumerated powers, nor amongst the necessary and proper means for carrying any into effect; still less should I be inclined to this admission, when the power thus proposed to be derived, incidentally or constructively, involves in it the exercise of almost unlimited powers. To illustrate my idea still further, in this respect, I would observe, that the power to regulate descents, and to regulate the distribution of intestates, I conceive to be original, distinct, substantive powers; and, being amongst the powers, which could in all respects be limited by the geographical boundaries of the individual States, and were, therefore, amongst the powers reserved to the management of the States, might as easily be assumed by Congress as incidental to some one of the enumerated powers, as the assumption of the power to grant charters of incorporation, which I conceive was, for the same reason, left to the management of the States. I believe no gentleman will contend that Congress can, under any candid

construction, go so far in relation to those powers; nor do I see how it can in relation to the power of granting charters of incorporation.

I have not overlooked the observation, sir, made by gentlemen to destroy the effect of this course of reasoning, to wit: that the passing every law is an act of sovereignty; that to pass a law to erect a light house, is as much an act of sovereignty, as to pass a law to lay and collect a tax, &c. or to grant a charter to a bank, &c. In fact, that there are no degrees of sovereignty. Without entering into this reasoning, it will be sufficient to show its inapplicability to my argument, to observe, that I have not grounded my distinctions upon any suggested difference in the degrees of sovereignty; but upon the clear and obvious difference in the nature and character of the powers upon which this sovereignty, &c. is intended to operate, &c.

The gentleman from Georgia (Mr. Crawford) observed, that the clause in the constitution, last read, "Congress shall have power to pass all laws which shall be necessary and proper," &c. had been considered by some, as entirely inoperative; but that he thought it a clause of great importance, &c. In this opinion, I entirely concur with the gentleman; I consider it the most important clause in the constitution. It is, in my judgment, the true key for unlocking the meaning of all the other clauses. The former confederation did not possess the means necessary and proper for carrying into execution its own powers. It was dependent upon the State Legislatures for that purpose; and it was too important a difference in the organization of the present and former Government, to be left to construction. It was therefore expressed, to declare the true character of the present Government; and to proclaim its sovereignty upon all the subjects of the enumerated powers. But, sir, the most important bearing of this clause appears to me to be the designation of the department which should be the ultimate depository of all the power vested in the Government by the constitution. Thus, Congress is declared not only to have power to pass all laws which shall be necessary and proper for carrying into execution the powers particularly confided to its management, but "all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof." This clause, I think, intended to settle all differences between the departments respecting the ultimate deposite of power, in which light it has been hitherto too little regarded. None of these considerations, however, can vary in the smallest degree the results I have attempted to draw against the power of Congress to resort to unenumerated, original, substantive power, general in its character and operation, as the necessary and proper means for carrying into effect any of the enumerated powers.

This brings me to consider the observations of the gentleman (Mr. Crawford) upon the 4th article of the constitution, in the following words:

"Full faith, and credit shall be given, in each State, to the public acts, records, and judicial proceedings, of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings, shall be proved, and the effect thereof.

"The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

"A person charged, in any State, with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

The gentleman observed, that this article contained no grant of power whatever; it was merely declaratory of certain principles, which ought to be left to the States to carry into effect; yet Congress had passed laws in relation to several of these subjects &c. and of course transcended the limits of the constitution; or rather had legislated upon subjects not enumerated, &c. To these observations I would reply that I do consider these clauses as investing the Government, generally, with the exercise of all these powers, although the particular department intended for their exercise is not here designated; but by reading these clauses in connexion with the clause before read, it will be found that Congress is entrusted with the execution of these powers.

Congress shall have power to pass all laws which shall be necessary and proper for carrying into effect the foregoing powers, and all other powers vested by this constitution in the Government of the United States, &c. It is then clear that other powers were vested, and intended to be vested in Congress, besides the foregoing enumerated powers; all the powers in the 4th article I presume to be strictly of this description. That this is the understanding of the article, is evinced by the concurrent opinions of the General and State Governments in those respects.

The difference of opinion, therefore, between the gentleman and myself consists in this: That the principles here declared, he thinks, ought to be executed by the State authorities; and I think they were intended to be executed by Congress; and if my interpretation be correct, then Congress has not transcended the limits of its authority.

This solution is at least satisfactory to myself. Another argument urged by the honorable gentleman (Mr. Crawford) requires some attention. The gentleman considered the General and State Governments, taken collectively, as forming one complete sovereignty; he then referred to a clause in the constitution which he conceived excluded the State Governments from the right to grant bank charters;

and thence inferred the right in the General Government, &c. Although I have full confidence in the opinions generally expressed by that gentleman, I cannot concur with him in this mode of deriving power to the General Government. It is directly repugnant to the principles of construction I have just suggested, and therefore cannot yield my assent to it.

The 10th section of the 1st article says: "No State shall enter into any treaty of alliance or confederation; grant letters of marque and reprisal; coin money, emit bills of credit," &c. The particular terms of this section, selected to exclude the States from incorporating banks, are these: "No State shall emit bills of credit." The gentleman supposes that a bank bill is a bill of credit, and therefore, that the States cannot establish an institution to issue a bill of credit. Our ideas differ as to the meaning of the term "bills of credit." As to the argument of the gentleman, that he who does an act by another does it by himself, it does not apply to the present case: for, if we recur, to the charters of incorporation, we shall find that a particular fund is fixed, and that this fund only is answerable for the redemption of the notes. The argument of the gentleman would as well apply to every common note, given by one individual to another; because the States as much issue bills of credit by protecting promissory notes, as by authorizing banks to issue such notes. In case of notes given by individuals, they become the property of him to whom they are payable; the drawer is responsible for the amount, and the State enforces the payment. In that case, too, the whole property of the drawer is pledged for the payment. In the case of bank bills, nothing is pledged but the sum specified in the charter. *The real meaning of this clause, therefore, I understand to be, to prevent the emission of bills, the payment of which is to be made by the States, themselves; similar to the old continental paper money; for that was evidently in the contemplation of the framers of the constitution, when they very wisely denied the power of issuing such bills to the States.*

The gentleman from Georgia next read the 1st section of the third article of the constitution. I should not take up the time of the Senate in noticing it, but that the construction which I then put upon it differs from that which he gave as an universal admission. The gentleman supposed there had been some departure from the constitution, under the following clause: "The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish." The gentleman observes that, at the time of the repeal of the judiciary act, it was generally admitted by the advocates of the repeal, that the supreme court was not tangible. That was not the opinion I then expressed; and the opinion I then expressed has, since that time, been strengthened and confirmed by further reflection. I do not know how the gentleman's argument can apply to the case under consideration, unless he meant to shew that the

decision in that respect, made by Congress, was unconstitutional. My opinion is, that it was constitutional, and that Congress might constitutionally modify and change the supreme court in the most essential point; and permit me here to protest against the usual mode of construing the constitution analogy. Instead of examining the expressions of the constitution itself to ascertain its meaning, we are often referred to certain principles borrowed from British jurists. Thus we are often referred to the fundamental principle of the separation of departments, &c. the independence of judges, &c. although neither of these terms are to be found in the constitution; and the principles, although correct in themselves, as general principles, are subject in practice to material qualifications and limitations; and this is particularly the case in the constitution. It appears to me as easy to ascertain the true meaning of the words used in the constitution, as the meaning of these or any other terms; and the error in this mode of reasoning generally, arises from the misapplication of the terms to the subject in question; or, in other words, when reasoning from analogy, in recollecting the resemblances and overlooking the differences in cases supposed to be analogous. To ascertain the true meaning of the constitution, therefore, I have always had reference to its own words, and discarded all reasoning from its analogy to any thing else. By referring to the clause respecting the judicial department, just read, and taking it in connexion will the clause which declares that Congress shall have power to pass all laws which shall be necessary and proper for carrying into execution all the powers, &c. "vested in any department," &c. it will appear obvious, that Congress might, according to the express words of the constitution, establish the judicial department, as it has done; and from time to time alter or modify it at its discretion, &c.; and if Congress thought proper to increase or lessen the number of judges of the supreme court, or to increase or lessen the duties to be performed by them, I would ask, where is the constitutional prohibition? I see none. Congress can designate the duties of the court and the compensation of the judges. They may take away the duties, and of course, also, the compensation. And why? Because we find the service and compensation inseparably connected, and the one made the consideration of the other Congress has a right to designate the services which the judges shall perform? And by what authority will they retain compensation after the services to be performed are taken away? It is not the name of office, nor good behavior in it, for which compensation is constitutionally given, but for service rendered. The reason of this article, in relation to the supreme court, is very obvious. It was to obtain an uniformity of decision; and if Congress establish one supreme court, they perfectly satisfy all the injunctive part of the constitution. But, I do not know how the gentleman's reference to this clause could affect the constitutional question in the present case.

I have thus far endeavored to explain and reconcile to the constitution those laws passed by Congress, which the gentleman has considered contrary to the constitution. I will now proceed to some other arguments of the gentleman. He observed that the bank law had been in existence for twenty years, during which time there had been an acquiescence in the law. I concur in that opinion. I do consider that all the instances presented by the gentleman, to wit: authorizing the bank to lend money; the extension of its right of establishing branches to New Orleans in 1804; and also the act to punish counterfeiting bank paper, in 1807, ought to be considered as acts of acquiescence by the Government in the constitutionality of that law.

I have given the most respectful attention to the arguments used by the opposers of the bill, to account for this acquiescence, and to obviate the reasoning drawn from it by its friends; and, whilst I give the gentlemen in opposition great credit for the ingenuity of the argument, I cannot concur in the reasoning upon which it is founded. I understand it to be bottomed upon the idea, that the bank law was in the nature of a contract; and that, under its influence, private rights became vested in individuals; and that, therefore, the Government was bound to carry it into effect, and that a refusal to have done so, or the repeal of the act, would have been a violation of good faith, &c, &c. The honorable gentleman from Tennessee (Mr. Anderson) observed, that the republican administration, viewing this law in the nature of a contract, from a sacred regard to the preservation of good faith, passed these several acquiescing laws, &c. &c. The observation of the gentleman, so far as it respected the manifestations of good faith on the part of the republicans, was certainly both just and pertinent. The republicans have certainly fulfilled, with the most scrupulously fidelity, all the public engagements of their predecessors as well as their own; yet I do not believe that these several acquiescing laws were passed under the pressure of any obligation for the preservation of good faith.

I concur with the honorable gentleman from Georgia (Mr. Crawford) in the conclusions he drew against this argument, of the imperious obligation due to contracts, under the influence of this law; but not precisely for the reasons he assigned for them. The gentleman observed, that it was essential, in the formation of contracts, that there should be parties, and a consideration. That, under the bank law, there was no sufficient consideration for the formation of a contract. In this I am inclined to think the gentleman is mistaken. I presume the mistake has arisen from an inattention to the circumstances under which the law was passed. Under the terms of the law, there were facilities given to the United States by the bank, of very considerable value. The bonus given was certainly a sufficient consideration to make the contract binding on the part of the United States. But I have several objections to this argument urged against the bill. In the first place, parties and a

consideration are not only essential to the formation of a contract, but parties capable of contracting. If the bank law be unconstitutional, then it cannot, as I conceive, give a constitutional capacity to the artificial person created by it to contract. An unconstitutional corporation has no more a constitutional or legal capacity to contract, than [a married woman, or even an idiot, each equally laboring under legal disabilities](#). The argument, therefore, which is used, to shew that the bank law is unconstitutional, and, at the same time, gave a constitutional capacity to an artificial person to contract, appears to me to be in the nature of a *felo de se* ---it destroys itself. Hence I conclude, that, if the law be unconstitutional in itself, it cannot confer on an artificial person a legal capacity to contract; and that any contract, made under its influence, would be void, for the want of that legal capacity. In the next place, if it be urged that Congress is bound to carry into effect all contracts in which individual rights or interests are concerned, then Congress may, in this way, derive to itself all the powers it may want for an object, instead of getting them by the shorter route of the assumption, under the terms common defence and general welfare; and in a much more exceptionable mode; because, it may not only thus acquire any power whatever, but may also acquire it in perpetuity. Hence, it appears to me that, if gentlemen should succeed in establishing this argument, they would lose more by the admission, than they would gain by limiting the powers of Congress to the enumerations of the constitution. In fact, that argument would be rendered worse than nugatory by this admission.

But I have a third objection to this argument of the obligation of the contract, more formidable than either of the preceding. It appears to me to be an argument against a fact. I know it is so as it respects myself. I have been present when most of these acquiescing laws have been passed, and I have no recollection of having been influenced in the votes I gave in their favor, by a view of the sacred obligations due to contracts; nor do I recollect to have heard this consideration urged by any gentleman, at the time of passing these several laws. In fact, at the time of passing the law for punishing counterfeiting the bills of the Bank of the United States, I recollect no other consideration operating on me, than the information that certain unprincipled individuals were counterfeiting bills in general circulation, to the great injury of the honest part of the community. I thought such conduct ought to be suppressed, and therefore voted for punishing all who should be engaged in it, without much attention to the constitutional question respecting the bank law. I cannot, without some violation to my feelings, agree to have any of my public conduct propped up by an after-thought, nor by any other considerations than those which operated at the time. These remarks, however, will certainly not apply to those gentlemen who voted under the suggested impressions. The general principle operating with me, was this: that all laws passed by

Congress must be considered as constitutional, until they are repealed. Their unconstitutionality is a good reason, and the best reason, for their repeal; but, so long as they remain in the statute book unrepealed, they must be considered constitutional, and, in my judgment, no tribunal on Earth can question their validity; nor can I admit that they are subject to the censorial power claimed by the judiciary. I am, therefore, disposed to admit the acquiescence in the bank law, and to give the gentlemen in favor of renewal all the advantage of the precedents quoted by them for that object, considered under all the circumstances of the case; and to what do they amount? Will they go so far as to preclude the present Congress from exercising its sound discretion upon the constitutional question, when brought directly to its consideration? and when, at the time of the several precedents quoted, it was only collaterally or incidentally considered, if considered at all? Certainly not; and, if in exercising the right of reviewing the constitution, the present Congress should be convinced that a former Congress had exceeded its limits, is it not bound by every conscientious consideration to correct the error, and to bring the laws within its wholesome provisions? It appears to me not only to be the right, but the indispensable duty of Congress to do so.

I will now proceed to animadvert upon some important observations made by two gentlemen, upon the right of the Legislatures of the respective States to instruct the Senators of the United States. Acting, as I now am, Mr. President, under the influence of instructions from the Legislature of the State I have the honor to represent, I feel myself imperiously called upon to notice some observations which fell from the honorable gentleman from Georgia (Mr. Crawford) and the honorable gentleman from Pennsylvania, (Mr. Leib) in relation to that subject.

The honorable gentleman from Georgia feelingly complains of the tendency of instructions from the great States, to embarrass the proceedings of this Government, by giving an undue bias to the deliberations, and restraining the free exercise of opinion in this honorable body, &c. &c. Without particularly adverting to the emphasis laid by the honorable gentleman upon the term "great States," I agree in general with the gentleman in his opinions in that respect. But, sir, in the present case, it may be observed, that the questions of instruction to Senators was first moved in the State of Maryland. Now, sir, Maryland, although great in virtues and resources, is not so great, in point of population and extent of territory, as to have obtained the denomination of a great State. The proposition, then, however, was rejected by one vote. A similar motion, I am informed, is now depending before the Legislature of New Jersey. New Jersey, like Maryland, although great in virtues and resources, is not so great in point of population and extent of territory, as to have obtained the denomination of a great

State. Indeed, sir, the right to instruct Senators has not been exclusively acted upon by the great States, generally so called, during the operations of this Government; but, I admit, has been more frequently resorted to by them.

The gentleman from Pennsylvania, (Mr. Leib) after having read his instructions, informed the Senate that he represented one of the great States which had given instructions, and that he felt himself absolutely bound by them in the vote he should give on the present question; that he considered himself the representative of the Legislature of Pennsylvania; that it was the principal, and he the agent, and he was bound to carry into effect its will, &c. However high may be the respect I generally entertain for the opinions of the honorable gentleman, I am compelled to dissent from him in these opinions. I feel myself compelled, too, to express this dissent, lest it might be supposed that, being similarly circumstanced with that gentleman, on the present question, my conduct might be influenced by similar considerations.

I do not consider myself the representative of the Legislature of Virginia, although I feel the most unbounded confidence in its wisdom and patriotism, and the highest respect for its proceedings. I consider myself the representative of the People of the United States, delegated to that character by the Legislature of Virginia. As an evidence of the correctness of this opinion, I have only to remark, that the laws which I contribute to pass, in the character of Senator, are co-extensive with the United States, and operate upon the People thereof in their individual capacities. They do not operate upon the State Legislatures in their corporate characters, except in cases where, in that character, they are connected with the Federal Government, or instrumental in the execution of some of its powers. Still less do they operate upon the Legislature of Virginia exclusively; of course, I cannot consider myself as the representative of that Legislature exclusively, as its agent, and bound, in all cases, to execute its will upon this floor, &c. &c. It is not necessary, nor do I mean to question the right of the State Legislatures, so long practised upon, to instruct the Senators of the United States, chosen by them, respectively; because that might produce an unmeaning and useless discussion about terms; but I mean to inquire, whether the exercise of the right imposes a constitutional obligation on the Senator instructed, to obey; in what the real obligation to obedience consists; whether the instruction is injunctive and compulsory on him, or addressed only to his discretion; or, in other words, whether the Senator instructed has not a right to disobey? and whether such disobedience violates any moral or political obligation?

I also propose to make a few observations on the operation of instructions upon the Federal Government and its proceedings. That the Senator instructed has a constitutional and legal right to disobey his instructions, is most obvious to my understanding, from the single

consideration, that a law passed by a vote, in disobedience of instructions, is as valid as a law passed by a vote in obedience to instructions. Obedience to instructions is nowhere commanded, nor is disobedience of instructions any where prohibited, by any written law or constitution. The act of disobedience does not subject the disobeying Senator to any punishment whatever; of course, the disobedience of instructions violates no political duty, and, if the instructions be addressed only to the discretion of the Senator, his disobedience of them violates no moral obligation; provided he exercises a sound and conscientious discretion, founded upon the best reflections he is able to bestow upon the subject thus presented for consideration. I therefore conclude, if the State Legislatures possess the right to instruct Senators of the United States, chosen by them, respectively, it is an incomplete right, without a remedy, or with a very remote one. The influence or the true obligation of instructions, therefore, arises from the expression of opinion by the State Legislatures;* and the very high respect which is at all times due from the Senator to the expression of such opinion by the Legislature of the State he represents ---a respect which I feel so strongly, that I never would depart from an opinion thus expressed, unless in a clear and indisputable case; but the point I contend for is, that this opinion is not injunctive, compulsory, or mandatory. That it is not in the nature of a command, but addressed to the discretion of the Senator instructed; taking into due consideration all the circumstances of the case connected with such instructions.

It may be said, that the Senator is responsible to the Legislature which appoints him, at the expiration of his term of service; this is true, if applied to the individuals who may compose the Legislature at that time; but it does not vary my conclusion; because, every act he

* It is presumed that this was the sense in which the Legislature of Virginia viewed this subject in 1800. In the memorable instructions of that day, the Legislature prefaces them with a declaration to the Senators of the United States, that they deem it important "to express their opinions" upon the subject of instructions. Then follows a course of reasoning, to convince the Senators of the propriety of the opinions thus expressed. The instructions in this case, therefore, were clearly addressed to the discretion of the Senators, and not considered as imposing a positive demand.

In 1808, the Legislature of Virginia instructed the Senators of the State, in the Congress of the United States, to use their best endeavors to obtain amendments to the constitution of the United States, which, in effect, would make the Senators of the United States recallable at the pleasure of the Legislatures of the respective States. It is presumed that the Legislature did not consider its instructions mandatory and that the instructed Senator was bound to obey, or in other words, had no right to disobey. Because, if the Senator was bound to obey the instructions of the Legislature, it might instruct him to resign, upon the same principle which would authorize instructions how to vote; and if the instructions be mandatory, the instructed Senator would be bound to resign as well as vote conformably thereto; of course, such an amendment to the constitution would be unnecessary. The Senators from Virginia, with the most respectful attention to the opinion expressed by the Virginia Legislature, in the most respectful terms, presented the instruction to the consideration of the Senate; but never

performs, whether instructed or not, is an act of responsibility; and the most which can be inferred from this idea, is, that it increases his responsibility, and would naturally produce caution; but cannot affect his right to disobey.

It cannot escape attention, that I purposely avoid all observations upon the rights of the People, as the legitimate source of all power in their highest sovereign capacities, and upon whom all laws passed by their representatives, operate in their individual characters, to instruct all their representatives, which, I presume, if practicable, would not be denied by any; because such a discussion would be unnecessary upon the present question. The inquiry I am making respects the right of one set of representatives of the People, chosen for certain purposes, to give mandatory instructions to another set of representatives of the People, chosen for other purposes, without any written law to that effect, and by the mere force of implication. If it should be contended that the Senators of the United States are the representatives of the Legislatures of the respective States, and not the representatives of the People of the United States, in their individual characters, contrary to the express provisions of the constitution, then this absurd conclusion would follow: that the People of the United States are governed by laws, not passed by their representatives, but by the representatives of their State Legislatures, in their corporate characters, contrary to the fundamental principles of all republican Governments, and directly opposite to the universal expectations of the whole American People.

But, sir, let us resort to the constitution itself, and see the actual relations which do there exist between the Legislatures of the respective States, and the Senators of the respective States, composing the Senate of the United States. In the 3d section of the 1st article of the constitution, are these words: "The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years, and each Senator shall have one vote." In another place, are these words: "And if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments, until the next meeting of the Legislature, which shall then fill such vacancies." These clauses of the constitution present all the relations between the Legislatures and Executives of the respective States, and the Senators of the United States; and in what do they consist? Certainly in nothing but in choosing the Senators; when that is done, all the functions of the Legislature and Executive are at an end, *quo ad* that particular subject. I

thought themselves bound to use their best endeavors to obtain the amendment to the constitution, as they were instructed to do. The Legislature, however, forwarded the proposed amendment to the other State Legislatures for concurrence; and, as far as information is yet received, the proposition has been unanimously disapproved by every State Legislature which has acted upon it.

see no influence given, either over the votes or the acts of the Senator, during the six years for which he is elected. During that period, the Senator is entrusted with the execution of all the powers and authorities conferred upon him by the constitution, at his own discretion, subject only to his constitutional responsibility, at the expiration of his term of service. But it may be said, that the right to instruct arises from the necessary connexion between the constituent and the representative. To this it may be replied, that this, upon the general principle, is a constructive or an implied right; but I doubt its application, at least in its full force, to this particular case. The relations in this case, between the constituent and the representative, are expressly prescribed by the constitution; neither of them can claim any original or native lights; and no construction nor implication ought to be inferred against its provisions, not in consistent with its obvious meaning. Besides, if this mere implication be the only foundation of the right of the State Legislatures to instruct Senators of the United States, it would equally apply to the State Executives, when, from adventitious causes, they exercise the right of appointment ---a right, I believe, not generally admitted, even by the State Legislatures; especially in the sense contended for, that the instruction is mandatory and conclusive. Will it not also apply to the connexion between the electors and the President of the United States? I find, by the 2d article of the constitution, that the President of the United States is to be chosen by electors appointed by the several States, and they, of course, become the immediate constituents of the President. But what would be thought of their inferring a right, from this connexion, to instruct the President of the United States in what manner to execute the powers and duties of his office? And what would be the probability of a concurrence in such instructions from the different electors of the several States? The President's responsibility is tested at the expiration of every four years; that of a Senator, at the expiration of every six years; and I believe that the changes of the individual electors in the several States are not greater, at the expiration of every four years, than are the changes in the individuals composing the State Legislatures, at the expiration of every six years. The responsibility of the President of the United States, therefore, may be considered as great, or greater, to his electors, than the responsibility of the Senators of the United States to the respective State Legislatures: for, I contend, the responsibility of the Senator is not to the State Legislature, in its corporate character, but to the individuals who may happen to compose the State Legislature at the time of his election, in their individual capacities, described only by the corporate term. It is believed that a pretension of this kind, by the electors of the President of the United States, would not be tolerated even by the State Legislatures. But, is there nothing expressly contained in the constitution of the United States, which would afford a stronger

implication against the exercise of this right by the State Legislatures, than the implication from which the right is said to be derived? I think the very first words of the constitution, after the preamble, afford strong evidence of the exclusion of the right of the State Legislatures to give mandatory instructions to the Senators of the State. They are the following: "All legislative powers, heretofore granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Now, sir, upon the principle of mandatory instructions from the State Legislatures to the Senators of the United States, will Congress exercise all the legislative powers granted by the constitution? Will not the State Legislatures essentially participate in the exercise of the legislative powers? If they can command and direct the votes of one distinct and essential branch of Congress, upon all legislative subjects, will it not be a material participation in the legislative powers granted exclusively to Congress? Could they not thus embarrass the whole proceedings of Congress? Could they not render all deliberations on the part of the Senate unnecessary? Could they not thus deprive the Government itself of all energy and efficiency? Surely the wise framers of the constitution could never have anticipated, still less could they have sanctioned, the assertion of such principles.

These considerations bring me to examine the tendency of the principle contended for, upon the character and proceedings of the General Government; and, sir, had it not been for the opinions I entertain on this question, I should not have given the other the critical examination I have attempted; but, sir, such is my opinion of the injurious effects of the practice of giving instructions by the Legislatures of the States to the Senators of the United States, that I deem it my indispensable duty to give the subject a full and candid investigation; although, in doing so, I know I shall have to encounter strong and honorable, and perhaps insuperable prepossessions against my opinions; particularly in the State I have the honor to represent. I wish it to be understood, however, sir, that, in the discharge of my duties on this floor, I shall always obey the honest dictates of my own judgment; and whenever I see, or think I see, danger of any kind threatening the due administration of this Government, I will, at all times, endeavor to expose it to the view of the People, and particularly of those from whom the unintentional danger is apprehended, regardless of any consequences to myself upon the political theatre. The best mode of appreciating the tendency of mandatory instructions upon the proceedings of the Federal Government, will be to bring to our recollection the great points of difference between the present Government and former confederation.

Under the former confederation, the States voted in their corporate characters; and if the representatives of any one of them were equally

divided in opinion, the State gave no vote. Under the present Government each representative votes in his individual character, and upon his individual responsibility. The words of the constitution are, "and each Senator shall have one vote." Under the former confederation, the requisitions of Congress operated upon the States in their corporate characters. Under the present Government, the laws of Congress operate upon the People of the United States in their individual characters.

The former Congress did not possess the means necessary and proper for executing its own will upon the subjects confided to its deliberations. The present Congress possesses power to carry into effect its own will or its laws, upon all subjects confided to its management. These are amongst the great points of difference in the character and powers of the two Governments. The former government fell to pieces from the feebleness of its organization, and principally from the want of power to execute its own will, from its dependence upon the State Legislatures for the execution of its requisitions.

Now, sir, if the State Legislatures possess the right to give mandatory instructions to their Senators, respectively, I see very little difference in the character of the present and former confederation; for there can be very little difference in the practical effect of the principle of requisitions by Congress upon the State Legislatures, which may be rejected at their discretion, and the principle of the State Legislatures making requisitions by mandatory instructions upon one essential branch of Congress; which must be obeyed by that branch, in exclusion of all discretion whatever. The feebleness and incongruity of the latter principle is, in my opinion, at least equal to the first; and, if admitted and indulged in, will as certainly terminate in the ruin and dissolution of the Government. Another injurious tendency of mandatory instructions is, to add to the locality of feelings and opinions of the deliberations of this honorable body, already too strong by native and habitual prepossessions and predilections. Another injurious tendency of mandatory instructions results from their influence in restraining the free exercise of opinion in the deliberations of this honorable body; and, if generally practised upon, would render all deliberations unnecessary. The incongruity of mandatory instructions to the operations of this Government will appear more obvious, by reflecting, that, if the same measure were to be concurred in, and required by every State Legislature in the Union, and their Senators peremptorily instructed to effect it, without exercising any discretion of their own, it is probable that such would be the difference in the mode or detail of the instructions from the respective State Legislatures, as to put it out of the power of the Senate to effect their object, the Senators from each State being bound to pursue the mode pointed out to them by the Legislature of the State they respectively represent. Indeed, such is my

opinion of the tendency of the principle of mandatory instructions, that I should regret very much to see it established and frequently resorted to. The practice, in my opinion would eventuate in producing feebleness and inefficiency in the General Government; collision among the several States; and finally disunion and dissolution of the General Government.

Sir, I now am, and always have been, attached to an efficient government; a government strong enough to repel external violence, and to ensure domestic tranquillity, and to secure the person and property of the individual citizens. The Federal Government I conceive to be an indispensable instrument in the effectuation of these great objects. I have often wondered at seeing gentlemen of learning, of talents, and of patriotism, rejoicing at the curtailment of its necessary powers. They seem to me to enjoy the triumph of every event of this kind, as much as if they had plucked a laurel from the brow of their most inveterate enemy, and placed it round their own; not being sufficiently impressed, in my judgment, with the importance of the Federal Government to the preservation of their own personal safety, and the security of their property, &c.

The gentleman from Georgia (Mr. Crawford) was pleased to say, that, in giving instructions to the Senators upon this occasion, the great States had been influenced solely by motives of avarice. I regret the remark; and I think, if the gentleman would dispassionately reconsider it, he would also regret it. I think he would admit that the Legislature of Virginia could not have acted under the influence of such a motive. And, sir, I feel a pride and a pleasure in standing here to repel the imputation, and to do justice to the real motives of the Legislature. I am at a loss to determine what are the particular circumstances which could have induced the gentleman to ascribe the motive of avarice to the Virginia Legislature on this occasion. It is true, that a branch of the Bank of the United States, with the trifling capital of 300,000 dollars, is established at Norfolk; and that a branch of the Bank of Virginia is also established there. But these circumstances furnish no possible motive of avarice to the Virginia Legislature. The amount of capital and its effects, are quite unimportant to the State. Norfolk itself, although equally respectable and important with any other portion of the State of the same extent and population, is not sufficient to excite the avarice of the Virginia Legislature. The Legislature of Virginia consists principally of agriculturists, residing in the interior of the State, who concern themselves very little with banks and bank operations. They therefore have made no calculations of pecuniary interests upon this occasion. They have acted, in giving instructions, upon the purest and most honorable motives, from a conviction that the power of granting charters of incorporation was not conferred on Congress by the constitution, but reserved to the States, respectively. That this

conviction alone was the inducement to their instructions will appear obvious from the instructions themselves, which I beg leave to read:

The General Assembly of Virginia view, with the most serious concern, the late attempts which have been made to obtain from Congress a renewal of the charter incorporating the Bank of the United States.

This Assembly are deeply impressed with the conviction that the original grant of that charter was unconstitutional; that Congress have no power whatever to renew it; and that the exercise of such a power would be not only unconstitutional, but a dangerous encroachment on the sovereignty of the States. Therefore,

Resolved, That the Senators of this State in the Congress of the United States be instructed, and our Representatives most earnestly requested, in the execution of their duties, as faithful representatives of their country, to use their best efforts in opposing, by every means in their power, the renewal of the charter of the Bank of the United States.

January 22, 1811.

Agreed to, Robert Taylor, s.s. James Barbour, s.h.d.

A copy from the original. Test. James Pleasants, c.h.d.

It manifestly appears from these instructions that a conviction of the unconstitutionality of the original bank law was the sole inducement with the Legislature for giving them; and here, sir, permit me to express a hope, that the arguments I have urged, in favor of this opinion, will amply justify the Legislature in the honest conviction under which it has acted. Permit me, also, to remark, sir, that, whilst I cannot admit that instructions in any case possess a mandatory influence over the Senator; and whilst I think the practice of giving instructions in general, and upon general points of policy, is attended with injurious effects upon the proceedings of this Government, &c; yet, in a case of rights reserved to the States, the Legislatures not only have the right, but it is their duty to express their opinions to, or instruct, their Senators (for I will not cavil about terms) to resist the usurpations of the General Government. It is the mildest way in which their agency can be brought to bear upon all such cases, and, this being a case in point, the instructing Legislatures stand perfectly justifiable in the conduct they have adopted in that respect. I hope, sir, that I have rescued the Legislature of Virginia from the unmerited imputation thrown against it, inadvertently I am sure, by the gentleman from Georgia, (Mr. Crawford) and have shown that it has been influenced by the purest, the most laudable, and the most honorable motives, &c.

I have, sir, thus presented to the Senate the most impartial and comprehensive views, which my best reflections have enabled me to take of the constitutional question involved in the present discussion, and of all the other topics which have been incidentally connected with it. I will now proceed to examine the subject in another point of view. Upon the question respecting the expediency of the renewal of the bank

charter, the friends of the bill claim the whole weight of the argument; whilst some of its opposers tacitly acquiesce in, and others faintly oppose this lofty pretension. Notwithstanding these circumstances, I entertain very great doubts upon that point. There appear to me to be considerations of great weight against it; perhaps more than sufficient to counter-balance those urged in favor of it. Both the gentlemen in favor of the bill relied very much upon the suggestion, that the prosperity of the United States was attributable, in a very great degree, indeed almost exclusively, to the establishment and operation of the Bank of the United States. I believe, sir, nothing is more difficult than to ascertain the true causes of the wealth and prosperity of nations; very few writers have been successful in the investigation of that intricate subject; but the adventitious establishment and operation of the Bank of the United States are amongst the last causes to which I would ascribe their rapid increase of wealth, and their general and extensive prosperity. It is not to any adventitious local causes we are to look for these universal effects. If I were to look for their real causes, I should expect to find them in the genius and wisdom of our political institutions; in permitting every citizen to employ his faculties at his own discretion, for the attainment of property; and securing to him the perfect and uncontrolled enjoyment of it when acquired. Each citizen, thus acquiring wealth and prosperity to himself, would of course accumulate the general stock, &c. These inestimable blessings have also been attended with signal and peculiar advantages, with an exemption from wars, and all other great political calamities, &c. &c. whilst that portion of the world with which we have the most extensive commercial relations has been, and still is, unhappily involved in wars almost interminable, and of the most disastrous characters; from which, till latterly, our commercial fellow citizens have derived advantages almost incalculable, and of course added greatly to the general stock of wealth and prosperity, &c. To these, and such like causes, permanent in their character, and universal in their operation, are properly to be ascribed the general wealth and prosperity of the nation; and not to the adventitious circumstance of the creation of a bank; still less should we rely upon this cause, when we reflect that the bank is local in its operations; whilst the scene of prosperity is universal through the United States, pervading those parts of them where the operations of the bank are scarcely known, and its influence never felt, as much as those parts immediately within the local point of its influence, &c. This argument, therefore, I conceive has been urged by the friends of the bill greatly beyond its real merits, and received with too much facility and effect by its opposers.

The gentleman from Georgia, (Mr. Crawford) upon introducing to the consideration of the Senate the report of the Secretary of the Treasury, was pleased to say, that he should rely in some degree upon

that report; although he knew that mentioning it would excite invidious feelings in some of the members of this body. I do not know to whom the gentleman meant to apply his allusion. I can only say, for myself, that I think the report is entitled to a respectful attention; that I would give it the same respect that I would show to a report from the head of any other department. It has always been my invariable habit to form my opinions from the facts contained in the documents before me, regardless of the authors of them; nor could I ever condescend, in the discharge of my duty upon this floor, to permit personal considerations to intermingle with, still less bias my deliberations. But, sir, I see nothing very operative in the Secretary's report. He says, in substance, that he has found in practice the Bank of the United States to be a convenient instrument for facilitating the management of the fiscal concerns of the nation; which I believe is generally admitted. It is also true that the Secretary has found it convenient, and has ventured to express his opinion in favor of the constitutionality of the bank bill; and I am willing to give to the opinion credit for what it is worth. No gentleman would say it ought to preclude the free exercise of opinion by others; and I acknowledge, upon this particular subject, I am not inclined to give it the weight to which that gentleman's opinion would be entitled upon other occasions; because he has uniformly manifested too much zeal for the success of this bill, to leave the mind perfectly free in the investigation. He has, for a long time, used such [various and incessant means to effect the renewal](#), that his mind must, in some degree, be divested of that coolness and impartiality which are indispensable to a critical and correct analysis of the constitution.

The gentleman from Georgia observed, that it was better to have a bank dependent on the United States, than to increase the dependence of the Government upon the State banks, over which the Government of the United States cannot exercise any control. I would submit to the honorable gentleman, upon further reflection, to say, whether the remark is applicable to the bill under consideration. After the charter is once granted, I see no control reserved to the Government. I fear the controlling influence would be on the other side. If, however, there must be a United States' Bank, I would prefer one of that character to the present project. I have too much confidence in Congress to be alarmed at the influence of a bank under its direction; and should greatly prefer it to one whose direction should be under the influence of British capitalists.

The honorable gentleman from Massachusetts, (Mr. Lloyd) to whose dispassionate, enlightened, and dignified observations, I listened with great pleasure, informed us, that there was a capital of fifty millions of bank paper in circulation in the United States, and the specie circulation for its support did not exceed ten millions ---and that was daily diminishing. If this be the true state of the circulating

medium, I think the extension of bank paper circulation already too great; and it would not be surprising to me, if a knowledge of this fact alone should lessen its credit. Its excess has certainly become an evil, and, instead of being still further extended, ought be curtailed. But the most objectionable circumstance to this excess of circulation of bank paper, I conceive to be its inevitable tendency to exclude the specie circulation, which it substitutes. A specie circulation is certainly greatly preferable to paper circulation; it has an intrinsic value in itself, whereas the paper circulation has no intrinsic value; and its currency depends upon the value of the specie circulation which it represents. Of course a circulation of value is excluded from the country, and substituted by one of no value; and in times of war, or other great political calamities, when the Government would stand most in need of the aid of banks for its support, their capacity to lend would be the most diminished, if not entirely destroyed, by the absence of specie capital, which the circulation of bank paper has banished from the country. I presume the gentleman would not consider the banishment of a circulation of intrinsic value, and substituting it with one of a representative value only, amongst the prosperous effects resulting from the operation of the Bank of the United States.

The gentleman from Massachusetts (Mr. Lloyd) favored the Senate with the perusal of his notes of the evidence of the democratic merchants and manufacturers of Philadelphia. I paid great attention to this information, derived from practical men, and should be sorry to misconceive it; and certainly could not disrespect it. But there were two facts, stated and assented to by all of them, which seem to me irreconcilable with the opinions expressed by those gentlemen, respecting the real causes of the present scarcity of money, and the distresses consequent upon that scarcity. The first fact was, that the bank in Philadelphia discounted precisely as much now, and proposed to do so till the 4th of March, as it heretofore had done. The other fact was, that the paper had not depreciated, but was still in good credit. The complaint was not that the paper, when obtained, was not of good credit, and would not answer their purposes, but that they could not obtain it. Now, sir, I cannot conceive how the scarcity of money, and consequent distress, can arise from any apprehension of putting down the bank, when precisely the same sum of money is now put into circulation by it as was formerly done, and the money itself in good credit. The pecuniary distresses complained of, in my judgment, are not properly attributable to these causes, but to some others, more inscrutable, and which have escaped the observations of those gentlemen. Perhaps they may more justly be ascribed, in some instances, to the general embarrassment of the commercial world at present, particularly the embarrassments of American commerce at the present moment, and perhaps, in some instances, to some unknown

embarrassments and difficulties in the particular occupations of the complaining individuals.

There is another fact to show, that the alarm at present is greatly exaggerated, or is certainly greatly beyond any real cause for it. It will appear, from the Secretary's report, that the debts due to the Bank of the United States are only \$600,000 less now, than they were twelve months ago; of course the discounts of the whole institution could only be lessened to that extent, and it is impossible for me to believe that the payment of that trivial sum, compared with the whole mercantile capital of the United States, could be seriously felt by the merchants generally, especially as they have been twelve whole months in paying it. If the payment of that sum, in twelve months, could produce all the distresses we hear of, I hope we shall hear no more of our immense mercantile wealth, and the great extension of our mercantile capital. Yet this is the only real cause for all the clamor and alarm circulating through the country. I think, with some confidence, that the consequences of putting down the bank of the United States must be artificially exaggerated, or very much misapprehended, and this opinion is grounded upon the consideration that it is directly repugnant to the interest of the bank to cause the apprehended distresses, and its directors certainly have the power to avoid the production of them. And I think that, when a calculation is made, and a conclusion drawn, upon the idea that a moneyed institution will pursue its own interest, it may fairly be said to be grounded on a solid consideration. I can not see how putting down this institution can materially affect the pecuniary abilities of the nation; its actual funds for discounting will be nearly the same; the position of them only will be changed; they will find their way into the State banks, and their ability to discount will be increased proportionably to the increase of their deposits. Nor am I at all alarmed at the suggestion that seven millions of dollars will be drawn out of the country by the British capitalists, because it will not be their interest to do so; their dollars are worth more here than in Great Britain; if drawn there, they would soon be melted down into their depreciated paper circulation. They might also draw bills to advantage, so that I doubt whether an additional dollar will be shipped from the country in consequence of the rejection of this bill. Certainly they will not to any great extent.

I will now, Mr. President, suggest a few considerations, which I acknowledge have great influence on my mind in deciding on the expediency of the proposed renewal of the charter of the Bank of the United States. I do it with great diffidence, because I have not yet heard them suggested by any other gentleman, at least not precisely as they affect my mind. I will, however, present them to the Senate, and do not wish them to be appreciated beyond what they are worth. In the incorporation of a bank upon the principles now proposed, the great

advantage to the stockholders consists in legalising their credit, and authorizing them to draw an interest on it, as well as on their money; individuals can obtain interest only on a loan of money; [the bank is authorized to obtain interest on a loan of credit](#), and that interest, according to the reported dividends of the Bank of the United States, has been 8 per cent, per annum, and it is probable it will continue quite as high. This advantage is not confined to the credit arising from the money owned by the stock holders; but, also, that which arises from the deposits of money belonging to other people. Nor is this all; it extends to the credit which arises from the enormous deposits of public money. It appears from the Secretary's report, that seven tenths of the whole stock are held by British capitalists; perhaps the proportion is greater, but covered, in some instances, by American names. It also appears that they will have enjoyed the full term of these incorporated advantages on the 4th of March next; of course, a refusal to renew them can not, in any respect, be considered as a departure from good faith. Now I can see neither the policy nor expediency of extending these favors and advantages voluntarily to these foreigners for twenty years, in exclusion of our own citizens, at least to the extent of the foreign capital now invested in the institution. I think, sir, at the same time, I can see very strong and peculiar grounds of objection to the policy and expediency of this measure. My objection arises from the [enormous British influence which notoriously pervades this country](#); and, I believe, affects the proceedings of Government so seriously, that it can hardly be said to be independent. I verily believe that [this baneful influence](#) has already driven the Government from measures which the best interest of the nation required.

Whilst we find Great Britain claiming exclusive dominion on the ocean, possessed of an immense mercantile capital and pecuniary resources, almost inexhaustible, we find many of her subjects intimately connected with our citizens in commercial pursuits. We find many mercantile houses in that country associated with mercantile houses in this, so much so, that when we hear of great failures in Liverpool, we may look out for squalls and breakers at New York. Not only has this influence operated on the people generally, but I state it as my firm conviction, that [it has operated, and now operates, on the Government of the United States](#). Is this mercantile connexion the only source of influence ? Not at all, sir; the influence accruing to Great Britain, from the identity of language; from reading British books; from the precedents derived from her systems of jurisprudence, inculcated in early life; from intermarriages, and various other circumstances, paralyzes the efforts of our country, and almost reduces it to a state of [colonial dependence](#).

I consider this bank as giving that diversified influence a body and form for action. Have we not been told that this bank has been so

operative, as to elevate or depress the State banks at pleasure ? As to **enlarge or contract the circulating medium** ? And is it desirable that such an engine should exist in the hands of foreigners ? Take away this influence, and Great Britain would stand nearly on the same footing, in relation to us, that any other nation does. I have not overlooked the observations of the gentleman from Georgia, in relation to this subject. He observed, if there be any influence, it is reciprocal; that these foreigners, having funds in the United States' Bank, will use their best exertions to procure a respect for our rights, or to keep the two nations at peace. I believe they will; but, whilst they may have an influence in this country, they will have none in their own. The influence of seven millions of dollars will not be felt in that country where three hundred millions are annually expended, although it will have much weight here. There is, then, no such reciprocation of influence as the gentleman supposes. I would ask the gentleman how this influence has been heretofore exerted, in practice, upon the two Governments ? Has it been able to induce Great Britain to relax in her hostility against us in the smallest degree? Has it prevented or repealed the orders in council? &c. Has it saved from imprisonment one American seaman? Did it prevent the attack upon the Chesapeake? In short, has it restrained the hostile arm of Great Britain from any hostile act? &c. On the other hand, how has it acted on our Government ? Has it not been instrumental in paralysing every effort of resisting these hostilities? Has it not cooled us down to a state of humble submission? &c. &c. &c. These are its natural practical effects, and will continue to be so. I am very far from wishing to interrupt the harmony and friendship between the United States and Great Britain, provided they can be preserved on honorable terms, but not by submission brought about by British influence.

I find I have trespassed too long on the indulgence of the Senate, but I beg to be permitted to reply to two observations, one of which has been much relied on, and I will pass over all others. It has been asked by one gentleman, whether this was a very propitious time for putting an end to this establishment? I admit that it is not; that very serious embarrassments attend our commercial operations. The sequestrations of France, the British orders in council, as well as the interruptions from other countries, must have had a very serious effect on our commerce. I regret that this measure is called for, at so inauspicious a time. I am willing to admit that, if we enforce the non-intercourse, the pressure will not be lessened. But are these circumstances so inauspicious, as to warrant us in passing over solemn constitutional objections? Are they such as to warrant us in still further increasing British influence in the nation? These are serious considerations; and, in my judgment, furnish strong grounds of objection to the policy and expediency of the proposed renewal of the bank charter. Gentlemen

may speak of the impartiality of the bank as they please; but **it is notorious** that it has always been hostile to all measures directed against Great Britain, and against the administration generally; evinced in the choice of directors, &c.

The honorable gentleman from Georgia (Mr. Crawford) feelingly complained, that this had artificially been made a party question by the course adopted in its discussion. I fear the remark is too true; that this discussion partakes too much of that character. I have endeavored to exclude every idea of that nature from the observations just made. I always regret to see any question, in discussion before this honorable body, assume the character of parties. It is always unwise in the party in power artificially to create party questions. It reminds me of the silly boatswain, who, not content to sail easily along before a pleasant breeze, puts up his whistle for a storm, which, when it arrives, upsets his vessel, and sends her to the bottom. It is our duty to examine every question solely on the ground of right and wrong.

In this country, that party will keep longest in possession of power, which shall do right, and administer justice regardless of all other considerations. I hope all my efforts have heretofore tended to produce these ends. It has been at all times my object to search out right; and vigilantly to pursue it, regardless of incidental consequences. Influenced solely by these considerations, I have endeavored to give this subject the most impartial investigation. I have done so, with the most respectful attention to the motives and reasonings of other gentlemen. I know that I stand much in need of the same liberality and indulgence myself, which, I hope, and doubt not, I shall receive in return.

When Mr. Giles finally concluded, the Senate adjourned of exhaustion.

Friday, February 15, 1811.

Motion to strike out the first section depending. Mr. Clay spoke in favor of the motion, and Mr. Pope against it.

MR. CLAY.²⁰ Mr. President.

When the subject involved in the motion now under consideration was depending before the other branch of the Legislature, a disposition to acquiesce in their decision was evinced. For although the committee who reported this bill, had been raised many weeks prior to the determination of that House, on the proposition to re-charter the bank, except the occasional reference to it of memorials and petitions, we scarcely ever heard of it. The rejection, it is true, of a measure brought before either branch of Congress, does not absolutely preclude the other from taking up the same proposition; but the economy of our time, and a just deference for the opinion of others, would seem to recommend a delicate and cautions exercise of this power. As this subject, at the memorable period when the charter was granted, called forth the best talents of the nation, as it has, on various occasions, undergone the most thorough investigation, and as we can hardly expect that it is susceptible of receiving any further elucidation, it was to be hoped that we should have been spared useless debate. This was the more desirable, because there are, I conceive, much superior claims upon us for every hour of the small portion of the session yet remaining to us. Under the operation of these motives, I had resolved to give a silent vote, until I felt myself bound, by the defying manner of the arguments advanced in support of the renewal, to obey the paramount duties I owe my country and its Constitution, to make one effort, however feeble, to avert the passage of what appears to me a most unjustifiable law.

20 Henry Clay (1777-1852); studied law, admitted to the bar; Senator 1806-7, 1810-11, 1831-1842, 1849-1852; Representative 1811-1825; Secretary of State 1825-1829 (in J.Q. Adams's cabinet, while John Calhoun was Vice-President)

A few years later Mr. Clay was retained as attorney by banking interests and he completely changed his views on central banking. From then on, till the end of his life, he was an apostle and theologian of the concept of independent central bank. In 1816 he will vote for the charter of the second Bank of the United States. In 1832 he moved what ever he could on Earth, to recharter the second Bank of U.S. In 1841 he did what he could to charter a 3rd Bank.

After my honorable friend from Virginia [Mr. Giles] had instructed and amused us with the very able and ingenious argument which he delivered on yesterday, I should have still forborne to trespass on the Senate, but for the extraordinary character of his speech. He discussed both sides of the question, with great ability and eloquence, and certainly demonstrated, to the satisfaction of all who heard him, both that it was constitutional and unconstitutional, highly proper and improper, to prolong the charter of the bank. The honorable gentleman appeared to me in the predicament in which the celebrated orator of Virginia, Patrick Henry, is said to have been once placed. Engaged in a most extensive and lucrative practice of the law, he mistook, in one instance, the side of the cause in which he was retained, and addressed the court and jury in a very masterly and convincing speech, in behalf of his antagonist. His distracted client came up to him, while he was thus employed, and, interrupting him, bitterly exclaimed, "You have undone me ! You have ruined me !" "Never mind, give yourself no concern," said the adroit advocate; and turning to the court and jury, continued his argument, by observing, "May it please your honors, and you, gentlemen of the jury, I have been stating to you what I presume my adversary may urge on his side. I will now show you how fallacious his reasonings, and groundless his pretensions, are." The skillful orator proceeded, satisfactorily refuted every argument he had advanced, and gained his cause ! A success with which I trust the exertion of my honorable friend will on this occasion be crowned.

It has been said, by the honorable gentleman from Georgia [Mr. Crawford] that this has been made a party question; although the law incorporating the bank was passed prior to the formation of parties, and when Congress was not biased by party prejudices.

[Mr. Crawford explained. He did not mean, that it had been made a party question in the Senate. His allusion was elsewhere.]

I did not think it altogether fair, to refer to the discussions in the House of Representatives, as gentlemen belonging to that body have no opportunity of defending themselves here.

It is true that this law was not the effect, but it is no less true that it was one of the causes, of the political divisions in this country. And if, during the agitation of the present question, the renewal has, on one side, been opposed on party principles, let me ask if, on the other, it has not been advocated on similar principles. Where is the Macedonian phalanx, the opposition, in Congress ? I believe, sir, I shall not incur the charge of presumptuous prophecy, when I predict we shall not pick up from its ranks one single straggler ! And if, on this occasion, my worthy friend from Georgia has gone over into the camp of the enemy, is it kind in him to look back upon his former friends, and rebuke them for the fidelity with which they adhere to their old principles ?

I shall not stop to examine how far a representative is bound by the instructions of his constituents. That is a question between the giver and receiver of the instructions. But I must be permitted to express my surprise at the pointed difference which has been made between the opinions and instructions of State Legislatures, and the opinions and details of the deputations with which we have been surrounded from Philadelphia. While the resolutions of those Legislatures -- known, legitimate, constitutional, and deliberative bodies -- have been thrown into the back-ground, and their interference regarded as officious, these delegations from self-created societies, composed of nobody knows whom, have been received by the committee, with the utmost complaisance. Their communications have been treasured up with the greatest diligence. Never did the Delphic priests collect with more holy care the frantic expressions of the agitated Pythia, or expound them with more solemnity to the astonished Grecians, than has the committee gathered the opinions and testimonies of these deputies, and, through the gentleman from Massachusetts, pompously detailed them to the Senate ! Philadelphia has her immediate representative, capable of expressing her wishes, upon the floor of the other House. If it be improper for States to obtrude upon Congress their sentiments, it is much more highly so for the unauthorized deputies of fortuitous congregations.

The first singular feature that attracts attention in this bill, is the new and unconstitutional veto which it establishes. The Constitution has required only, that after bills have passed the House of Representatives and the Senate, they shall be presented to the president, for his approval or rejection ; and his determination is to be made known in ten days. But this bill provides, that when all the constitutional sanctions are obtained, and when, according to the usual routine of legislation, it ought to be considered as a law, it is to be submitted to a new branch of the Legislature, consisting of the president and twenty-four directors of the bank of the United States, holding their sessions in Philadelphia; and if they please to approve it, why then it is to become a law ! And three months (the term allowed by our law of May last, to one of the great belligerents, for revoking his edicts, after the other shall have repealed his) are granted them, to decide whether an act of Congress shall be the law of the land or not ! — an act which is said to be indispensably necessary to our salvation, and without the passage of which, universal distress and bankruptcy are to pervade the country. Remember, sir, the honorable gentleman from Georgia has contended that this charter is no contract. Does it, then, become the representatives of the nation, to leave the nation at the mercy of a corporation ? Ought the impending calamities to be left to the hazard of a contingent remedy ?

This [vagrant power](#)^{\$} to erect a bank, after having wandered throughout the whole Constitution in quest of some congenial spot to fasten upon, has been at length located by the gentleman from Georgia on that provision which authorizes Congress to lay and collect taxes, etc. In 1791, the power is referred to one part of the instrument; in 1811, to another. Sometimes it is alleged to be deducible from the power to regulate commerce. Hard pressed here, it disappears, and shows itself under the grant to coin money. The sagacious Secretary of the Treasury, in 1791 [Alex Hamilton], pursued the wisest course; he has taken shelter behind general high sounding and imposing terms. He has

\$ On March 23, 1838, Henry Clay, by then long-time attorney to the 2nd Bank of the United States, remarked to Senator Garret Dorset Wall that he found "this vagrant power" in the late war and in the necessities of the country.

declared, in the preamble to the act establishing the bank, that it will be very conducive to the successful conducting of the national finances; will tend to give facility to the obtaining of loans, and will be productive of considerable advantage to trade and industry in general. No allusion is made to the collection of taxes.

What is the nature of this government ? It is emphatically federal, vested with an aggregate of specified powers for general purposes, conceded by existing sovereignties, who have themselves retained what is not so conceded. It is said that there are cases in which it must act on implied powers. This is not controverted, but the implication must be necessary, and obviously flow from the enumerated power with which it is allied. The power to charter companies is not specified in the grant, and I contend is of a nature not transferable by mere implication. It is one of the most exalted attributes of sovereignty. In the exercise of this gigantic power we have seen an East India company created, which has carried dismay, desolation, and death, throughout one of the largest portions of the habitable world — a company which is, in itself, a sovereignty, which has subverted empires and set up new dynasties, and has not only made war, but war against its legitimate sovereign ! Under the influence of this power, we have seen arise a South Sea company, and a Mississippi company, that distracted and convulsed all Europe, and menaced a total overthrow of all credit and confidence, and universal bankruptcy. Is it to be imagined that a power so vast would have been left by the wisdom of the Constitution to doubtful inference ? It has been alleged that there are many instances, in the Constitution, where powers in their nature incidental, and which would have necessarily been vested along with the principal, are nevertheless expressly enumerated; and the power "to make rules and regulations for the government of the land and naval forces," which it is said is incidental to the power to raise armies and provide a navy, is given as an example. What does this prove ? How extremely cautious the convention were to leave as little as possible to implication. In all cases where incidental powers are acted upon, the principal and incidental ought to be

congenial with each other, and partake of a common nature. The incidental power ought to be strictly subordinate and limited to the end proposed to be attained by the specified power. In other words, under the name of accomplishing one object which is specified, the power implied ought not to be made to embrace other objects, which are not specified in the Constitution. If, then, you could establish a bank, to collect and distribute the revenue, it ought to be expressly restricted to the purpose of such collection and distribution. It is mockery, worse than usurpation, to establish it for a lawful object, and then to extend it to other objects which are not lawful. In deducing the power to create corporations, such as I have described it, from the power to collect taxes, the relation and condition of principal and incident are prostrated and destroyed. The accessory is exalted above the principal. As well might it be said, that the great luminary of day is an accessory, a satellite, to the humblest star that twinkles forth its feeble light in the firmament of heaven !

Suppose the Constitution had been silent as to an individual department of this government, could you, under the power to lay and collect taxes establish a judiciary ? I presume not; but if you could derive the power by mere implication, could you vest it with any other authority than to enforce the collection of the revenue ? A bank is made for the ostensible purpose of aiding in the collection of the revenue, and while it is engaged in this, the most inferior and subordinate of all its functions, it is made to diffuse itself throughout society, and to influence all the great operations of credit, circulation, and commerce. Like the Virginia justice, you tell the man whose turkey had been stolen, that your books of precedent furnish no form for his case, but that you will grant him a precept to search for a cow, and when looking for that he may possibly find his turkey ! You say to this corporation, we can not authorize you to discount, to emit paper, to regulate commerce, etc. No ! Our book has no precedents of that kind. But then we can authorize you to collect the revenue, and, while occupied with that, you may do whatever else you please !

What is a corporation, such as the bill contemplates ? It is a splendid association of favored individuals, taken from the mass of society, and invested with exemptions and surrounded by immunities and privileges. The honorable gentleman from Massachusetts [Mr. Lloyd] has said, that the original law, establishing the bank, was justly liable to the objection of vesting in that institution an exclusive privilege, the faith of the government being pledged, that no other bank should be authorized during its existence. This objection, he supposes, is obviated by the bill under consideration; but all corporations enjoy exclusive privileges; that is, the corporators have privileges which no others possess; if you create fifty corporations instead of one, you have only fifty privileged bodies instead of one.

I contend that the States have the exclusive power to regulate contracts, to declare the capacities and incapacities to contract, and to provide as to the extent of responsibility of debtors to their creditors. If Congress have the power to erect an artificial body, and say it shall be endowed with the attributes of an individual; if you can bestow on this object of your own creation the ability to contract, may you not, in contravention of State rights, confer upon slaves, infants, and females covert the ability to contract ? And if you have the power to say that an association of individuals shall be responsible for their debts only in a certain limited degree, what is to prevent an extension of a similar exemption to individuals ? Where is the limitation upon this power to set up corporations ? You establish one in the heart of a State, the basis of whose capital is money. You may erect others whose capital shall consist of land, slaves, and personal estates, and thus the whole property within the jurisdiction of a State might be absorbed by these political bodies.

The existing bank contends that it is beyond the power of a State to tax it, and if this pretension be well founded, it is in the power of Congress, by chartering companies, to dry up all the sources of State revenue. Georgia has undertaken, it is true, to levy a tax on the branch within her jurisdiction, but this law, now under a course of litigation, is considered as invalid. The United States own a great deal of land in the

State of Ohio; can this government, for the purpose of creating an ability to purchase it, charter a company ? Aliens are forbidden, I believe, in that State, to hold real estate; could you, in order to multiply purchasers, confer upon them the capacity to hold land, in derogation of the local law ? I imagine this will be hardly insisted upon; and yet there exists a more obvious connection between the undoubted power which is possessed by this government, to sell its land, and the means of executing that power by increasing the demand in the market, than there is between this bank and the collection of a tax. This government has the power to levy taxes, to raise armies, provide a navy, make war, regulate commerce, coin money, etc., etc. It would not be difficult to show as intimate a connection between a corporation, established for any purpose whatever, and some one or other of those great powers, as there is between the revenue and the bank of the United States.

Let us inquire into the actual participation of this bank in the collection of the revenue. Prior to the passage of the act of 1800, requiring the collectors of those ports of entry, at which the principal bank, or any of its offices are situated, to deposit with them the custom-house bonds, it had not the smallest agency in the collection of the duties. During almost one moiety of the period to which the existence of this institution was limited, it was nowise instrumental in the collection of that revenue to which it is now become indispensable ! The collection, previous to 1800, was made entirely by the collectors; and even at present where there is one port of entry, at which this bank is employed, there are eight or ten at which the collection is made as it was before 1800. And, sir, what does this bank or its branches, where resort is had to it ? It does not adjust with the merchant the amount of duty, nor take his bond; nor, if the bond is not paid, coerce the payment by distress or otherwise. In fact, it has no active agency whatever in the collection. Its operation is merely passive; that is, if the obligor, after his bond is placed in the bank, discharges it, all is very well. Such is the mighty aid afforded by this tax-gatherer, without which the government can not get along !

STATUTE I.

May 10, 1800.

Act of March
2, 1799, ch. 23.
Allowance to
certain collect-
ors.

CHAP. LIV.—*An Act supplementary to an act, intituled "An Act to establish the compensation of the officers employed in the collection of the duties on impost and tonnage."*(a)

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the thirtieth day of June next, there shall be allowed and paid annually, to and for the use of the several collectors and surveyors appointed, and to be appointed pursuant to law, and employed in the collection of the duties of imports and tonnage, in the districts herein after mentioned, in addition to their fees and emoluments otherwise allowed by law, the sums following respectively, that is to say:—To the collectors of Passamaquoddy, Waldoborough, and St. Mary's, two hundred and fifty dollars each; to the collectors of Machias, Great Egg Harbor, Little Egg Harbor, Perth Amboy, Bridgetown, Sunbury, and Georgetown in Maryland, one hundred dollars each; and to the collectors of Sagg Harbor, Brunswick, in Georgia, and Dumfries, fifty dollars each; to the surveyor of Bermuda Hundred, one hundred and fifty dollars; and to the surveyors of Newport, Providence, Port Royal, Alexandria, and Saybrook, one hundred dollars each.

Commissions
to certain col-
lectors.

SEC. 2. *And be it further enacted,* That in lieu of the commissions heretofore allowed by law, there shall, from and after the thirtieth day of June next, be allowed to the collectors for the districts of Alexandria, Petersburg, and Richmond respectively, two and an half per centum, on all monies which shall be collected and received by them; to the collector for the district of Boston and Charlestown, and to the collectors of Baltimore and Philadelphia, three eighths of one per centum; to the collectors of Charleston, South Carolina, Salem and Norfolk and Portsmouth, three quarters of one per centum; to the collector of the district of Portland, one per centum, for and on account of the duties arising on goods, wares and merchandise imported into the United States, and on the tonnage of ships and vessels.

Certain col-
lectors to de-
posit bonds in
bank for col-
lection.

SEC. 3. *And be it further enacted,* That it shall be the duty of the collectors of the several districts of Philadelphia, New York, Boston, Baltimore, Norfolk and Charleston, and they are hereby respectively directed to deposit for collection in the Bank of the United States, or at an office of discount and deposit of the said bank, all the bonds taken, or to be taken by them, for duties by virtue of any law of the United States; but on all money collected by the said banks the commissions aforesaid are to be allowed the said collectors in like manner as if received by them.

APPROVED, May 10, 1800.

Again, it is not pretended that the very limited assistance which this institution does in truth render, extends to any other than a single species of tax, that is, duties. In the collection of the excise, the direct and other internal taxes, no aid was derived from any bank. It is true, in the collection of those taxes, the former did not obtain the same indulgence which the merchant receives in paying duties. But what obliges Congress to give credit at all? Could it not demand prompt payment of the duties? And, in fact, does it not so demand in many instances? Whether credit is given or not is a matter merely of discretion. If it be a facility to mercantile operations (as I presume it is) it ought to be granted. But I deny the right to engraft upon it a bank, which you would not otherwise have the power to erect. [You can not create the necessity of a](#)

bank, and then plead that necessity for its establishment. In the administration of the finances, the bank acts simply as a payer and receiver. The Secretary of the Treasury has money in New York, and wants it in Charleston; the bank will furnish him with a check or bill, to make the remittance, which any merchant would do just as well.

I will now proceed to show by fact, actual experience, not theoretic reasoning but by the records of the treasury themselves, that the operations of that department may be as well conducted without as with this bank. The delusion has consisted in the use of certain high-sounding phrases, dexterously used on the occasion; "the collection of the revenue," "the administration of the finance," "the conducting of the fiscal affairs of the government," the usual language of the advocates of the bank, extort express assent, or awe into acquiescence, without inquiry or examination into its necessity. About the commencement of this year there appears, by the report of the Secretary of the Treasury, of the 7th of January, to have been a little upward of two million and four hundred thousand dollars in the treasury of the United States; and more than one third of this whole sum was in the vaults of local banks. In several instances, where opportunities existed of selecting the bank, a preference has been given to the State bank, or at least a portion of the deposits has been made with it. In New York, for example, there were deposited with the Manhattan Bank \$188,670, although a branch bank is in that city. In this District, \$115,080 were deposited with the bank of Columbia, although here also is a branch bank, and yet the State banks are utterly unsafe to be trusted ! If the money, after the bonds are collected, is thus placed with these banks, I presume there can be no difficulty in placing the bonds themselves there, if they must be deposited with some bank for collection, which I deny.

Again, one of the most important and complicated branches of the treasury department, is the management of our landed system. The sales have, in some years, amounted to upward of half a million of dollars, and are generally made upon credit, and yet no bank whatever is made use of to

facilitate the collection. After it is made, the amount, in some instances, has been deposited with banks, and, according to the Secretary's report, which I have before adverted to, the amount so deposited, was, in January, upward of three hundred thousand dollars, not one cent of which was in the vaults of the bank of the United States, or in any of its branches, but in the Bank of Pennsylvania, its branch at Pittsburg, the Marietta Bank, and the Kentucky Bank. Upon the point of responsibility, I can not subscribe to the opinion of the Secretary of the Treasury, if it is meant that the ability to pay the amount of any deposits which the government may make, under any exigency, is greater than that of the State banks; that the accountability of a ramified institution, whose affairs are managed by a single head, responsible for all its members, is more simple than that of a number of independent and unconnected establishments, I shall not deny; but, with regard to safety, I am strongly inclined to think it is on the side of the local banks. The corruption or misconduct of the parent, or any of its branches, may bankrupt or destroy the whole system, and the loss of the government in that event, will be of the deposits made with each; whereas, in the failure of one State bank, the loss will be confined to the deposit in the vault of that bank. It is said to have been a part of Burr's plan to seize on the branch bank, at New Orleans. At that period large sums, imported from La Vera Cruz, are alleged to have been deposited with it, and if the traitor had accomplished the design, the bank of the United States, if not actually bankrupt, might have been constrained to stop payment.

It is urged by the gentleman from Massachusetts [Mr. Lloyd], that as this nation advances in commerce, wealth, and population, new energies will be unfolded, new wants and exigences will arise, and hence he infers that powers must be implied from the Constitution. But, sir, the question is, shall we stretch the instrument to embrace cases not fairly within its scope, or shall we resort to that remedy, by amendment, which the Constitution prescribes ?

Gentlemen contend, that the construction which they give to the Constitution has been acquiesced in by all parties and

under all administrations; and they rely particularly on an act which passed in 1804, for extending a branch to New Orleans; and another act of 1807, for punishing those who should forge or utter forged paper of the bank. With regard to the first law, passed, no doubt, upon the recommendation of the treasury department, I would remark, that it was the extension of a branch to a territory over which Congress possesses the power of legislation almost uncontrolled, and where, without any constitutional impediment, charters of incorporation may be granted. As to the other act, it was passed no less for the benefit of the community than the bank; to protect the ignorant and unwary from counterfeit paper, purporting to have been emitted by the bank.

When gentlemen are claiming the advantage supposed to be deducible from acquiescence, let me inquire what they would have had those to do who believed the establishment of a bank an encroachment upon State rights. Were they to have resisted, and how ? By force ? Upon the change of parties in 1800, it must be well recollected, that the greatest calamities were predicted as a consequence of that event. Intentions were ascribed to the new occupants of power, of violating the public faith, and prostrating national credit. Under such circumstances, that they should act with great circumspection was quite natural. They saw in full operation a bank, chartered by a Congress who had as much right to judge of their constitutional powers as their successors. Had they revoked the law which gave it existence, the institution would, in all probability, have continued to transact business notwithstanding. The judiciary would have been appealed to, and from the known opinions and predilections of the judges then composing it, they would have pronounced the act of incorporation, as in the nature of a contract, beyond the repealing power of any succeeding Legislature. And, sir, what a scene of confusion would such a state of things have presented: an act of Congress, which was law in the statute-book, and a nullity on the judicial records ! was it not the wisest to wait the natural dissolution of the corporation rather than accelerate that event by a repealing law involving so many delicate considerations ?

When gentlemen attempt to carry this measure upon the ground of acquiescence or precedent, do they forget that we are not in Westminster Hall ? In courts of justice, the utility of uniform decision exacts of the judge a conformity to the adjudication of his predecessor. In the interpretation and administration of the law, this practice is wise and proper, and without it, every thing depending upon the caprice of the judge, we should have no security for our dearest rights. It is far otherwise when applied to the source of legislation. Here no rule exists but the Constitution, and to legislate upon the ground merely that our predecessors thought themselves authorized, under similar circumstances, to legislate, is to sanctify error and perpetuate usurpation. But if we are to be subjected to the trammels of precedent, I claim, on the other hand, the benefit of the restrictions under which the intelligent judge cautiously receives them. It is an established rule, that to give to a previous adjudication any effect, the mind of the judge who pronounced it must have been awakened to the subject, and it must have been a deliberate opinion formed after full argument. In technical language, it must not have been *sub silentio*. Now the acts of 1804 and 1807, relied upon as pledges for the re-chartering of this company, passed not only without any discussions whatever of the constitutional power of Congress to establish a bank, but, I venture to say, without a single member having had his attention drawn to this question. I had the honor of a seat in the Senate when the latter law passed, probably voted for it, and I declare, with the utmost sincerity, that I never once thought of that point, and I appeal confidently to every honorable member who was then present, to say if that was not his situation.

This [doctrine of precedents](#), applied to the Legislature, appears to me to be fraught with the most mischievous consequences. The great advantage of our system of government over all others, is, that we have a written Constitution defining its limits and prescribing its authorities; and that however for a time faction may convulse the nation, and passion and party prejudice sway its functionaries, the season of reflection will recur when, calmly retracing their

deeds, all aberrations from fundamental principle will be corrected. But once substitute practice for principle; the exposition of the Constitution for the text of the Constitution, and in vain shall we look for the instrument in the instrument itself ! It will be as diffused and intangible as the pretended Constitution of England; and must be sought for in the statute-book, in the fugitive journals of Congress, and in the reports of the Secretary of the Treasury ! What would be our condition if we were to take the interpretations given to that sacred book, which is, or ought to be, the criterion of our faith, for the book itself ? We should find the Holy Bible buried beneath the interpretations, glosses, and comments of council, synods, and learned divines, which have produced swarms of intolerant and furious sects, partaking less of the mildness and meekness of their origin than of a vindictive spirit of hostility toward each other ! They ought to afford us a solemn warning to make that Constitution, which we have sworn to support, our invariable guide.

I conceive, then, sir, that we were not empowered by the Constitution, nor bound by any practice under it, to renew the charter of this bank, and I might here rest the argument. But as there are strong objections to the renewal on the score of expediency, and as the distresses which will attend the dissolution of the bank have been greatly exaggerated, I will ask for your indulgence for a few moments longer. That some temporary inconvenience will arise, I shall not deny; but most **groundlessly** have the recent failures in New York been **attributed to the discontinuance** of this bank. As well might you ascribe to that cause the failures of Amsterdam and Hamburg, of London and Liverpool. The embarrassments of commerce, the sequestrations in France, the Danish captures; in fine, the belligerent edicts, are the obvious sources of these failures. Their immediate cause is the return of bills upon London, drawn upon the faith of unproductive or unprofitable shipments. Yes, sir, the protest of the notaries of London, not those of New York, have occasioned these bankruptcies.

The power of a nation is said to consist in the sword and the purse. Perhaps, at last, all power is resolvable into that of the purse, for with it you may command almost every thing

else. The specie circulation of the United States is estimated by some calculators at ten millions of dollars, and if it be no more, one moiety is in the vaults of this bank. May not the time arrive when the concentration of such a vast portion of the circulating medium of the country, in the hands of any corporation, will be dangerous to our liberties ? By whom is this immense power wielded ? **By a body that, in derogation of the great principle of all our institutions, responsibility to the people, is amenable only to a few stockholders, and they chiefly foreigners.** Suppose an attempt to subvert this government; would not the traitor first aim, by force or corruption, to acquire the treasure of this company ?

Look at it in another aspect. **Seven tenths of its capital are in the hands of foreigners,** and these foreigners chiefly English subjects. We are possibly on the eve of a rupture with that nation. Should such an event occur, do you apprehend that the English premier would experience any difficulty in obtaining the entire control of this institution ?

Republics, above all other governments, ought most seriously to guard against **foreign influence**. All history proves that the internal dissensions excited by foreign intrigue have produced the downfall of almost every free government that has hitherto existed; and yet gentlemen contend that we are benefited by the possession of this foreign capital ! If we could have its use, without its attending abuse, I should be gratified also. But it is vain to expect the one without the other. Wealth is power, and, under whatsoever form it exists, its proprietor, whether he lives on this or the other side of the Atlantic, will have a proportionate influence. It is argued that our possession of this English capital gives us a great influence over the British government. If this reasoning be sound, we had better revoke the interdiction as to aliens holding land, and invite foreigners to engross the whole property, real and personal, of the country. We had better at once exchange the condition of independent proprietors for that of stewards. We should then be able to govern foreign nations, according to the reasoning of the gentlemen on the other side.

But let us put aside this theory and appeal to the decisions of experience. Go to the other side of the Atlantic

and see what has been achieved for us there, by Englishmen holding seven tenths of the capital of this bank. Has it released from galling and ignominious bondage one solitary American seaman, bleeding under British oppression ? Did it prevent the unmanly attack upon the Chesapeake ? Did it arrest the promulgation, or has it abrogated the orders in council — those orders which have given birth to a new era in commerce ? In spite of all its boasted effect, are not the two nations brought to the very brink of war ? Are we quite sure that, on this side of the water, it has had no effect favorable to British interests ?

It has often been stated, and although I do not know that it is susceptible of strict proof, I believe it to be a fact, that this bank exercised its influence in support of Jay's treaty; and may it not have contributed to blunt the public sentiment, or paralyze the efforts of this nation against British aggression ?

The Duke of Northumberland is said to be the most considerable stockholder in the Bank of the United States. A late lord chancellor of England, besides other noblemen, was a large stockholder. Suppose the Prince of Essling, the Duke of Cadore, and other French dignitaries, owned seven eighths of the capital of this bank, should we witness the same exertions (I allude not to any made in the Senate) to re-charter it ? So far from it, would not the danger of French influence be resounded throughout the nation ?

I shall therefore, give my most hearty assent to the motion for striking out the first section of the bill [which meant the rejection of the renewal].

Mr. Pope. Mr. President: In rising, on this occasion, I never more entirely obeyed both my feelings and my judgment. The principle involved in the decision about to be given, is, in my view, of more magnitude than any which has been presented for our consideration, since I had the honor of a seat here. It is no less than whether we shall surrender to the State Governments the power of collecting our revenue, and rely upon the old system of requisitions. We are called upon to

return to that state of imbecility and chaos from which this political fabric was reared, by the wisdom and patriotism of the first statesmen of which any age or nation can boast. For twenty years we have collected our revenue, borrowed money, paid our debts, and managed our fiscal concerns, through the agency of a national bank. That it has answered the most sanguine expectations of its authors; that it has been well managed; is admitted by the most decided opponents to the renewal of the charter. Although, in public debate, in newspapers, courtyards, muster fields, &c. we have heard much of dangerous powers, violations of the constitution, British influence, and poisonous vipers, &c. which were to sting to death the liberties of the People, yet we find ourselves as free almost as the air we breathe, and hardly subservient to the mildest code of laws by which any nation was ever governed. In the city of Philadelphia, and the state of Pennsylvania generally, where these animals, called banks, have grown to the most enormous size, we find as sound morals, and as much real practical republicanism, as in those parts of the Union where the rattling of this viper's tail has never been heard; and, in point of solid wealth and internal improvements, mark the contrast. We are required to disregard the lessons of that best teacher, experience, and to try some new scheme. However captivating new theories and abstract propositions were, a few years since, I believe the thinking men of all parties in the nation are perfectly convinced that one ounce of experience and common matter of fact sense is worth more, for the purposes of legislation, than a ship-load of theory and speculation. We are told that we must force into the vaults of the bank a large portion of the circulating medium, and thereby depress the price of every thing in the market; we must give a shock to credit of every kind; check and embarrass every branch of agricultural, commercial, and manufacturing industry; give up the young mechanics, manufacturers, and merchants, with small capitals, a prey to the cupidity of moneyed men, who will be tempted to withdraw their funds from trade, to speculate on the wrecks of the unfortunate. This is not mere matter of calculation. I only state facts proved to us by the most unquestionable

evidence. We are not only, sir, to ruin many innocent and unoffending individuals, but to derange the national finances. And for what is all this to be done ? To promote the public good, or advance the national prosperity ? No, sir, it is not pretended. We are gravely told that we, the Representatives of the People, must sacrifice the People to save the constitution of the People, whose happiness and welfare it was intended to secure. If this be true, it is indeed a strange government under which we live. I advance the opinion with confidence, that no principle which, in its practical effects, outrages the common sense and feelings of mankind, can be a sound one, and we ought to examine it well, and hesitate much before we give our assent. To bring distress on the country, not to prevent a violation of any positive provision of the constitution, but to correct what we suppose to have been an erroneous construction of it by our predecessors, of which neither the States or the People have ever complained, appears to me more nice than wise.

Disguise this question as you will, sir, and still it will clearly appear to be a contest between a few importing States and the People of the United States. Resolutions have been already laid on our table by gentlemen from the two large States; from which instructions have been received in substance, requiring Congress to give up to the State banks the collection of the national revenue. I am, Mr. President, on the side of the People of the United States. This is, indeed, a question of party, but of a very different character from that which will be attempted to be palmed on the People. It is a contest between the friends and enemies of the federal constitution, revived: for, if I am not mistaken, the power of laying and collecting imposts and duties was strongly objected to by some of the large States, having advantageous sea ports, before the constitution was adopted. I am for preserving both the States and the Union. I consider the safety and independence of the several States, and the liberties of the People, inseparably connected with, and dependent on, the efficiency of the National Government; and it is to me unaccountable that gentlemen in favor of strong measures against foreign nations should be so solicitous to strip the

General Government of this very essential part of its power. We were told, a few days since, that our army was so insignificant and contemptible, that it would require a constable with a search warrant to find it. I have heard another gentleman, of very high standing, suggest the propriety of retroceding the ten miles square to the States of Virginia and Maryland. Our gun boats are almost rotten. We have not more frigates and other armed vessels than sufficient to carry our ministers and diplomatic despatches to foreign courts; and if we yield to the States the collection of our revenue, what will remain of the Federal Government with which the People can identify their feelings or affections? In what will this Government consist? It will be a mere creature of the imagination ---a political fiction. And, analogous to the fiction in the action of ejectionment, we shall have to suppose its existence, and then bottom our proceedings upon that supposition. If I was hostile to our Federal Union, or wanted to prepare the public mind for a surrender of this happy system of government, I would join in the hue and cry against this institution; I would support every measure calculated to destroy all confidence in, and respect for, this Government, both at home and abroad; I would endeavor to produce, throughout the country, confusion and disorder, and a state of glorious uncertainty; then persuade the People to seek security and tranquillity under some other form of government. The transition, from a wild, factious democracy, to despotism, is often easy, and generally sudden. The extremes are very nearly allied. A republican Government, guided by the virtue and intelligence of a nation, is the first of human blessings; but, when directed by the angry vindictive passions of party, the worst of which the imagination can conceive. A republic, to be durable, must inspire confidence and respect. Such instability, such variable unsettled policy, as now appears to be the order of the day, could not have been anticipated by any man blessed with a tolerable degree of faith in the success of this great republican experiment.

Mr. President, I have ever been opposed to yielding to the commercial interest an undue influence in this Government, but I am unwilling to make an unnecessary and wanton attack

upon them. Coming from an agricultural State, I am not disposed to increase the jealousies which unfortunately exist, and thereby weaken the ties by which these States are held together. I am sensible, too, how much the prosperity of the State I represent depends on a prosperous State of trade; and although the shock from the dissolution of this bank will be first felt in the commercial cities, it must immediately react to the extremes of the empire. I know many are under an impression that federalists and British agents are to be the victims; but very different will be the result. I refer to the evidence detailed by the honorable gentleman from Massachusetts, (Mr. Lloyd). But is it possible that an intolerant spirit of party has prepared us for this ? Are gentlemen ready to injure their country, weaken our federal Union ---the sheet anchor of our political safety--- to reach their political opponents ? I will not believe it. When I see around me some of the soldiers of the Revolution, actuated, I am sure, by nobler views; when I see the professors of a religion which teaches us to love our neighbors as ourselves; I cannot persuade myself that Christian charity, and all the noble, generous feelings of the human heart, are extinguished by this demon, party spirit. If there be a man in the nation who can witness, with unfeeling apathy, the distresses of his fellow citizens, he would have figured in Smithfield, in the bloody reign of Queen Mary of England, in binding heretics to the stake, or in the sanguinary time of Robespierre, in adding victims to the guillotine; but he is unworthy the blessings of a free Government.

Sir, I address the Senate under circumstances discouraging indeed. I have been told, and on this floor, that debate is useless; that no man's opinion is to be changed; that I shall find verified, in the decision of this question, the sentiment contained in two lines of Hudibras: "He that is convinced against his will is of the same opinion still." I cannot admit this. I know there are gentlemen fully sensible of the evils about to befall their country, without any obstinate pride to conquer, who would rejoice at being convinced it is in their power to avert them. Let me intreat them to pause and reflect, before they inflict a wound on their country's interest, under

the influence of constitutional doubt; and if they err, I would ask them, would it not be more safe and patriotic to err in favor of the People? Permit me, now, sir, to redeem this subject from the constitutional difficulties with which it has been encumbered.

To form a correct opinion, we must retrospect the defects of the old Government, and ascertain the remedy which was anticipated in the present constitution. I believe it will be conceded that the great cause of the inefficiency of the former was not because the principal field of legislation was too limited, but was owing to its dependence on the States for the means to carry their powers into effect. For the truth of this position I appeal to the history of that day ---the candor of gentlemen who hear me. The present constitution was framed for rational purposes, with ample authority to pass all laws necessary and proper for the attainment of its objects, independent of State authority, except so far as expressly made dependent by the constitution. The erroneous impressions with regard to this bank have arisen from ignorance of facts, relative to the practical fiscal operations of the Government, and from confounding an original independent power to establish banks and corporations with a necessary auxiliary to the execution of the powers given. By the constitution it is expressly declared, that Congress shall have power to pass all laws necessary and proper to carry into effect the powers previously enumerated, and all other powers vested in the Government of the United States, or any department or officer thereof. Our power to create a bank is not derived by implication. No, sir. If this express delegation of power had not been inserted, we must have implied the authority to provide the means necessary and proper, &c.

But the convention, with a full knowledge of the defects of the old confederation, and deeply impressed with the necessity of an efficient national Government, determined to exclude all doubt, by granting to the new Government, in express and unequivocal language, ample authority to use all means necessary and proper for the attainment of the ends for which it was instituted. If a man was requested to look at the constitution, and decide whether power is given to Congress

to create a bank or corporations generally, he would answer in the negative. This would very naturally be the answer of most men, upon the first blush of the constitution. It is not pretended that Congress have power to create corporations, as an independent proposition. The authority to establish a bank, or corporation, is only contended for so far as it can be fairly considered as a necessary and proper auxiliary to the execution of the powers granted by the constitution. The question of constitutionality depends upon facts, *dehors** the instrument, of which we must be informed before we decide, and which could not be ascertained before the attempt was made to give motion and energy to this political machinery. If the fact be ascertained, by the best evidence the nature of the subject affords, that a bank is necessary and proper to effectuate the legitimate powers of Government, then our power is express, and we need not resort to implication. To prove, to the satisfaction of the Senate and the world, this material fact, will be my business, before I request their assent to the position assumed, that Congress have an express power to incorporate a bank. To do this it is indispensable that we should understand the practical financial concerns of the Government, or have the information of those who do. We appropriate money for fortifications, on the report of our engineer, Colonel Williams, and for the capitol, &c. upon the report of Mr. Latrobe. To know how much timber or other materials are necessary for a ship or a house, you must understand the subject yourself, or have the information of those who do. For myself, I am ready to admit that I rely much upon the information and experience of others. To ignorant men, and those who do not profess to be fully acquainted with the nature and management of the national finances, the following evidence is presented. The utility and necessity of which was ascertained by the experience of that day.

It is worthy of remark, that they created a bank, under powers much more limited than ours. That act was not passed precipitately, but was the result of the most mature and deliberate consideration. I beg leave to read the preamble of the law which contains the opinions of that Congress with

* outside

regard to the utility and necessity of a national bank. "Whereas Congress, on the 26th day of May last, did, from a conviction of the support which the finances of the United States would receive from the establishment of a national bank, approve a plan for such an institution, submitted to their consideration by Robert Morris, Esq. and now lodged among the archives of Congress, and did engage to promote the same by the most effectual means: And whereas the subscription thereto is now filled, from an expectation of a charter of incorporation from Congress, the directors and president are appointed, and application hath been made to Congress, by the said president and directors, for an act of incorporation: And whereas the exigencies of the United States render it indispensably necessary that such an act be immediately passed: Be it therefore ordained," &c. This act passed on the 31st day of December, 1781. And here permit me to observe, that this national bank, styled the Bank of North America, was not produced by British influence or party spirit. No, sir, the little, slandering, intriguing partyism, of the present moment, was unknown to the patriots of that awful period. They had no party but their country; liberty and independence were their objects. Their souls were fired with a noble, a generous enthusiasm, on which Heaven looked down with pleasure. It appears, from the journals of the Congress of 1781, that the members from every State were unanimous in favor of a national bank, except Massachusetts, Pennsylvania, and Virginia; the two members from Massachusetts voted against it, the two members from Pennsylvania were divided; of the four from Virginia, Mr. Madison alone voted against it. Here it is evident that, in the very infancy of our republic, before, indeed, it could with propriety be said to be born, when every bosom glowed with enthusiasm for liberty and a pure disinterested patriotism, a national bank was not thought that dangerous dreadful monster, which the very wise, and exclusive patriots, of 1811, are endeavoring to represent it to the American People. And the construction given to the grant of powers, in the articles of confederation, by the Congress of 1781, is strong evidence of our right to establish a bank, under a grant of powers much

more ample, and with money concerns vastly more extensive and complicated.^{\$}

The next evidence I shall adduce, for the consideration of the Senate, is the opinion of the late General Hamilton,[%] appointed by President Washington the first Secretary of the Treasury; whose province and duty it was to superintend the national finances. His attention was, therefore, particularly directed to the subject, and, in a very able report to the first Congress, assembled under the new constitution, he recommended a national bank. Although opinions have been imputed to this gentleman, very foreign to my feelings and notions about government, yet he has ever been acknowledged, by the candid and liberal of all parties, one of the first of American statesmen. For reasons, which it is unnecessary for me to assign, I will not press his opinion upon the attention of the Senate, but will introduce other and perhaps less exceptionable testimony. The Congress of 1791, which incorporated the present bank, merits the highest regard.[&] It was composed of the most enlightened and distinguished men in America, many of whom had been members of the convention, and were fully apprized of the defects of the old and the objects of the new Government. A large majority of both branches voted in favor of the bank. They were not divided on the question by party. Many, who have continued with the republican party under every administration, voted in favor of this bank. Although different speculative or abstract political opinions were then entertained, yet the spirit and passion of party had not diffused itself so generally through the nation as at a subsequent period. The next authority in favor of this bank, and one which must, at all times, and on all occasions, command the highest respect, is no less than our immortal

^{\$} Four directors of the Bank of North-America were at the Federal Constitutional Convention. James Wilson even wrote the "ex post facto" clause of the constitution. Not one of these bankers dared to mention incorporating a bank, much less attempting to frame it into the constitution. This fact should tell you more about the mindset of the Framers than all your (and your friends') lawyerly vindication.

[%] Alexander Hamilton was also at the Constitutional Convention; and he, also, was very quiet ---not a word about the vital necessity of a bank.

[&] We do know that 29 out of the 90 members of the first congress were speculators ---who directly benefited from their own legislative actions.

Washington. He was President of the United States in 1791, when this bank law passed. After it had received the sanction of both branches of the Legislature, with that circumspection and prudence which regulated his conduct through life, he consulted the able men who composed his cabinet council, on the constitutional question; they differed in opinion; he heard their arguments for and against the measure; and, after full consideration, approved the law. I cannot yet, sir, take leave of this very important testimony in favor of the bank. The opinion of our Washington has the strongest claim to our confidence. Let us pause, before we disregard his solemn advice. This is the hero who led our armies to victory; this is the Washington, who, at the close of our Revolutionary war, disbanded a disciplined army in the bosom of the republic, and voluntarily exchanged the splendid robes and ensigns of military power, for the plain, humble garb of a private citizen. This Washington, who continued an American, a republican in heart and in sentiment, until summoned to the mansions of bliss; yes, sir, this illustrious departed hero, this practical statesman, has solemnly declared to the American People, that a national bank is a necessary and proper auxiliary to the execution of the national powers. The last authority I shall particularly notice, in support of this institution, is the opinion of the present Secretary of the Treasury, Mr. Gallatin. If this gentleman cannot boast of the military laurels which have adorned the brows of the patriots I have mentioned, as a statesman and faithful public servant, he stands inferior to none. Mr. Gallatin, from his first appearance on the theatre of public life, has been considered, by all parties, an able financier. At a very early period, the finances of the United States became the subject of his particular attention and inquiry; the result of which was a treatise, published in 1796, called 'Gallatin on the finances of the United States,' in which he gives a decided opinion in favor of this bank. I rely much on his opinion at that period, because it must have been the result of conviction, and not of any party feeling or consideration, as he was then in the minority, and continued in it until the administration changed. His report to the Senate, during the last session of Mr. Jefferson's

administration, and his letter to the committee, show that time and experience, so far from changing, have confirmed him in the opinion he first formed on the subject; to which, I might add, every administration, and almost every man practically acquainted with our money concerns. Is not this mass of evidence sufficient to substantiate the facts upon the existence or non-existence of which the constitutionality of this measure depends? I put the question to the candor and good sense of gentlemen, whether they are not satisfied, in the language of the constitution, that a national bank is necessary and proper to effectuate the legitimate powers of the National Government? If they answer in the negative, I can only say, he who will neither regard the suggestions of experience, nor believe the report of the great political disciples who have gone before us, would not believe though one were to rise from the dead. And what is the answer to all this out of doors? Why, that we are not to be governed by the information or opinion of others, however well acquainted with the subject: we are so self-sufficient as to disregard the best lights which can be presented to us. The cry is up to the hub, down with the bank, huzza for the party! So long, Mr. President, as I shall be honored with a seat in the Senate of the Union, I am determined to respect my station, and my own feelings and character, too much, to be driven along by any such idle, ridiculous clamor.

To all the high authority I have mentioned, in support of a national bank, may be opposed the names of some great men of Virginia, who have, long since, I hope, got rid of their errors and prejudices; among others will, probably, be mentioned the name of the present President, who voted against the present bank, in 1791, and against the Bank of North America, in 1781. No man has a higher respect than myself for his virtues and wisdom; but, I believe, it is not pretended that he ever was a practical financier. No State can boast of more genius, eloquence, and talents, than Virginia; it will, however, be conceded, that no People are more deficient in practical knowledge of finance and the nature of moneyed institutions. Indeed, they were, a few years since, frightened at the very name of a bank. As soon as they heard of one, they

began to write books, make speeches, and pass resolutions, to lay this ghost of tyranny. It required all the eloquence of my honorable friend from that State, (Mr. Brent) to persuade the Legislature that the little bank of Alexandria would not sweep away their liberties. The talents and boldness with which he, on that occasion, assailed the prejudices of Virginia, instead of injuring him, inspired the People with the highest confidence in his integrity and firmness; since, however, they have become acquainted with this bank animal, they find it perfectly harmless, and no People in the Union are more disposed to foster it.

The People, in framing the constitution, have avowed the objects for which it was created. They say in the preamble, "We, the People of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States or America." After declaring by whom, and in what manner, the legislative power shall be exercised, the qualifications of the electors and elected, the terms, &c. for which the Senators and Representatives shall be respectively chosen, and making various other provisions relative to the legislative department, they proceed to enumerate the principal cardinal powers granted to Congress; among others, that the "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States; to borrow money on the credit of the United States; to regulate commerce with foreign nations, and with the Indian tribes; to establish an uniform rule of naturalization, &c; to coin money; regulate the value thereof; to declare war, &c; to raise and support armies, &c; to raise and maintain a navy."

At the close of this catalogue, of what I shall call cardinal powers, they have inserted the general provisions before noticed: "To make all laws necessary and proper for carrying into effect the foregoing powers, and all other powers vested

by this constitution in the Government of the United States, or in any department or officer thereof." This provision contains a general authority as to the means necessary to carry into effect the national powers. The convention could not foresee or define what laws, in the progress of the Government, the varying circumstances of the nation might require, and therefore wisely submitted them to the discretion of Congress, to be exercised on facts and circumstances, as they occurred. It has been said this discretion may be abused; and so may every other power given to Congress, the security of the People against the abuse of this or any other power is their own virtue and intelligence, and the responsibility of their public servants. The question, on every law bottomed on this clause of the constitution, must be, whether it is necessary and proper; or, in other words, fairly suited to, and well calculated for, legitimate national objects; and, if it can be fairly considered necessary and proper, and is not prohibited, then it is certainly within the pale of the constitution.

The constitution may with propriety be compared to a ship, finished as to all the substantial parts, before she is put to sea. The People have built the national vessel, directed in what manner the commanders are to be chosen, and made it their duty to provide sails, rigging, sea stores, &c. necessary and proper to enable her to perform the voyages for which she was destined; and those appointed to navigate her are not only bound to provide what is necessary and proper for those seas where temperate and gentle breezes are to be met with, but fit her to encounter the most tempestuous seasons.

As I heard much said about absolute, indispensable necessity, I may be pardoned for giving what I consider the sound interpretation of the words necessary and proper, in the constitution. This idea of absolute, indispensable, &c. must have originated in an excessive jealousy of power, or a decided hostility to the federal Union. This instrument was framed by and for the People of the United States, and, in the language used, was certainly intended to be understood in that sense in which it is used and understood by them generally. If you ask a plain man what are the necessities of life, he will answer, something below luxury and

extravagance; what is calculated to afford him reasonable comfort. Neither a house nor a bed is absolutely or indispensably necessary to a man's existence; he could live in a camp, and sleep on boards, or on the ground; yet, the common sense of mankind would respond, they are necessary and proper. If a man had a journey to make, either to Richmond, in Virginia, or Lexington, in Kentucky, although every person would pronounce a coach and six superfluous and unnecessary, all reasonable men would say, he ought to have a horse or a hack; but it will not be pretended that either are indispensable, because he could perform it on foot. If a gentleman from Baltimore gives his agent instructions to provide every thing necessary for an East India voyage, what would he expect? Certainly that he should avoid unnecessary expense, but would consider him acting within the pale of his authority if he procured only what was reasonably necessary and proper, or, in other words, what was fairly suited to the master and crew, and well calculated to enable the vessel to reach her port of destination. That interpretation is correct which best accords with the common sense and understanding of mankind. It must therefore be evident that the only question, as regards the constitutionality of the measure, to be decided, is a question of fact, and that is, whether a national bank is reasonably necessary and proper, or fairly suited to, and calculated for, the collection of our revenue and the management of our money concerns. And this fact appears to be admitted by the gentlemen opposed to the bill: for their arguments are predicated upon the probability that the State banks will answer the national purposes. This is a complete surrender of the constitutional objection: for, if banks be necessary and proper, it follows that we have a constitutional power to create them, and it will be a mere question of expediency whether we will use State banks or a national bank.

My colleague (Mr. Clay) has asked for the congeniality between a bank and the collection of our revenue. The argument in favor of using State banks shews it; but let the use hitherto made of the bank answer the question. Is not a bank a proper place for the deposit and safe-keeping of

money, more so than the custom house? Is it not a convenient agent for paying and receiving money? Through the agency of this bank, our revenue, or the greater part of it, has been collected, our financial transactions done, and public money transmitted to such places as the necessities of the Government required. The revenue, collected at Boston, Baltimore, or any other port, is paid, if required, at New Orleans, Natchez, St Louis, or any other place, without risk or expense. The money in the bank and its branches is payable at such of them as the convenience of the Government may require; and by this arrangement we can command the whole of the public money in any quarter of the Union, without risk or expense. The operations of this institution have been confined to the seaboard. The principal bank is at Philadelphia, with a branch at New York, Boston, Baltimore, Washington, Norfolk, Charleston, Savannah, and New Orleans; at all which places, the Government has considerable revenue to collect. No branches have been extended into the interior. It has been connected with our fiscal arrangements at all the places to which it has been extended, and may be fairly deemed a convenient, necessary, and appropriate auxiliary to the management of the national concerns. It is said that the revenue is collected at many ports where none of these branches are placed. This is true; the bank and branches are fixed only at the principal seaports, where a large amount of revenue is collected. Every one draws into its vaults, subject to the demands of Government, the revenue collected at the less important ports in the same quarter of the country. Boston being the commercial emporium of New England, the Government, by the agency of the branch bank there, is enabled to draw to that point most of the revenue received at the numerous ports in that quarter of the Union.

The repeated sanctions this bank has received from the different administrations, and especially from Mr. Jefferson and the republican party, by authorizing the extension of a branch to New Orleans, and selling one million of the stock, the property of the United States, to British subjects, for four hundred thousand dollars more than the nominal amount, is, indeed, strangely accounted for. Gentlemen say the

Government was bound to fulfil their engagements, and that the charter, being in the nature of a contract, was sacred. I had thought the fashionable doctrine was, that an unconstitutional law was wholly null and void. It has been held by some of the States. However plausible the answer to the argument of acquiescence, it furnishes no apology for a positive confirmation. Permit me to assimilate a common case between individuals to the question before us. A man, in Washington, executes a joint power to five trustees, in Kentucky, to collect his debts, settle his land business, &c. and authorizes them to take all steps, necessary and proper to effectuate the trust or power. In the progress of the business, a measure is suggested as necessary, about which there is a diversity of opinion among the trustees. A majority, however, decide that it is within their authority; the principal is informed of it; does not complain or disavow; but positively, and by the strongest implication, assents to the construction given by his agents. In such a case there would be but one opinion. In 1791 a national bank is proposed to Congress; they differ as to the constitutionality; a large majority decide in favor of it; the People and the States are informed of the measure; the States do not protest, nor do the People complain; many of the States pass laws to protect the institution; it receives the confirmation of three or four different administrations, and particularly of the one composed of men originally opposed to it; it violates no positive provision of the constitution; no mischiefs have been produced, but great convenience and advantage has been experienced by the Government and community. I ask whether, under such circumstances, the question ought not to be considered settled. Is no respect due to the opinions of our predecessors? Is a question of construction never to be at rest? Why is a judge, sworn to support the laws and constitution of the country, bound by a train of decisions contrary to his own opinions? Because the good, the peace, and tranquillity, of society, require it. The conduct of a court, as well as every department of Government, must be regulated in its course, in some measure, by a regard for the public weal. It is worthy of remark, that, notwithstanding all the fuss about implied and

incidental powers, if you except the sedition law, which was supposed to violate a positive provision of the constitution, the same practical construction has been given to this instrument by every administration of the Government. Indeed, the sphere of national legislation has been more enlarged under Mr. Jefferson's than any other administration. All parties have found that the national vessel could not be navigated without sails, rigging, and every thing necessary and proper. Whence was derived a power to pass a law, laying an embargo, without limitation? There is nothing in the constitution about embargoes. Whence did we derive a power to purchase Louisiana, and incorporate it with the good old United States? There is no express delegation of power to purchase new territory. On these subjects, the constitution is silent. I have approved both. No State can lay an embargo, or acquire new territory. Our power to perform these acts results from the nature of the national sovereignty created by this constitution. The republican administrations have no pretensions to the approbation of the People, on the ground of having restrained any latitude or liberality of construction. Their claim to the public confidence is founded on very different considerations. They have repealed the internal taxes, paid a large part of the public debt, purchased Louisiana, and preserved to the nation the blessings of peace. For these acts they have, I believe, the thanks of the nation. They have mine, most sincerely.

Great stress is placed on the 12th article of the amendments to the constitution, which declares, the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the People. I must confess that I cannot discover what influence this can have on the bill under consideration, or any other measure which may be proposed. It appears to me to have been adopted rather to quiet State jealousies and popular fears, than with a view to produce any positive effect: for the inquiry must ever be, is the power given? And if granted, it is not retained. The supporters of this bill do not pretend to usurp any power retained by the States or the People, but contend that the power to pass the bill is

expressly delegated, if the facts assumed are true. It is not pretended that our fiscal concerns can be managed with gold and silver. If our territory was of no greater extent than Rhode Island, Delaware, or the city of Philadelphia, gold and silver would answer the purposes of the Government; but it would require a number of pack horses and wagons to transport the public money in gold and silver over this immense country, to the different places where it is wanting. Our extensive commerce, and the great extent of this empire, renders a paper medium necessary. Is the power to create this paper medium or **national currency**, an attribute of State or national sovereignty? I put the question to the candor of gentlemen, and solicit a serious answer. The argument of my honorable friend from Georgia, against the power of the States to authorize the emission of bank paper, rounded on that part of the constitution which declares, that "no State shall emit bills of credit," acquires great additional force, when these bills of credit are made to assume the character of money, for national purposes. In the same article, the power to coin money is expressly prohibited to the States; and in the catalogue of cardinal powers granted to this Government, is that to coin money. It will, perhaps, be contended, that this only applies to gold and silver; but if that be admitted to be the literal meaning of the words, still it is evident, that what shall be the **national currency**, whether specie or paper, is a proper subject of national legislation. No gentleman will be so absurd as to insist that any State or States ought to coin the current money of the United States. That the power of the States to establish banks may be questioned, with at least great plausibility, is perfectly clear; but as this banking power has been so long exercised, as the national and State banks have conducted their operations very harmoniously, as no serious evils call for national interference, I am not for disturbing the existing state of things; it is better, perhaps, that the banking power should be divided between the States and the United States. That bank paper, if good, is, in fact, money, although not made a legal tender, cannot be denied. The currency of this bank paper of the United States, although made by law receivable in payment of revenue, rests upon a

much better foundation than an act of Congress; its national character, the extended operations of this bank from Boston to New Orleans, have given it credit with the People of every part of the empire, more than the bank paper of any particular State can be expected to have; so that, by common consent, this money coined by the National Bank has become the current money of the United States. I hope we shall never be driven to the necessity of compelling our citizens, by law, to receive [our paper](#).[§] We should so guard and regulate our banking operations as to make the national paper at least equal to gold and silver, in every quarter of the Union.

If this bank is removed, the Secretary of the Treasury must nationalise the bank paper of the great importing States: for, I presume, Congress will never decide what State paper shall be used by the officers of the General Government. Most of the public money is now collected and deposited in the Bank of the United States; if that is destroyed, the Secretary of the Treasury is to deposite in the State banks, and with him is the power of selection a power and patronage greater than any ever exercised by any officer in this nation. The deposits of the public money are sought after with great avidity, by all the State institutions. He can deposite the whole in one, or divide it between two or three, or all the banks in any one place; he can change them at pleasure; he may, with great apparent fairness and propriety, make it a condition with every bank, where deposits are made, that they shall appoint a certain portion of the directors of his nomination, and, through them, he can reach the credit of any man who may have accommodations in it. It is true, we have now a man at the head of the treasury who may not be disposed to abuse this power; but we may not always have such an officer. This immense power and influence may be exercised in an invisible manner, and, of course, without responsibility. Is this republican? It was not a few years ago. I have always understood that one of the strongest and most popular objections to the Federal Administration was, their disposition to increase Executive patronage.

§ Why not ? Why not Treasury Notes, instead of bank-notes, as national paper currency ? If it is so “necessary & proper” why not use the Government's paper ?

We are told that our remittances to foreign countries and to different parts of the United States, can be made in bills of exchange; this, to be sure, is possible, but this mode is less convenient and more hazardous. I believe the Government has sustained no loss in the remittances made to Europe, through the agency of this institution. They are able, through the medium of their several branches, to ascertain the credit and solvency of every commercial house in the United States, and thereby to purchase bills for foreign remittances with safety. The great punctuality secured to the Government in the payment of the revenue, by their agency, is also an object of some consequence.^{\$}

Much alarm and delusion have been artfully spread through the country about a violation of the constitution, and a consequent destruction of our republican institutions, I fear the People are unfortunately led to believe, that the security of their liberties depends too much upon paper barriers, and too little upon their own virtue and intelligence. It appears to me, that the constitution is occasionally made a mere stalking horse, to serve the purposes of unprincipled demagogues and pretended lovers of the People, to get into power to the exclusion of honest men. They, with great address, distract and inflame the public mind about some nice constitutional question, or abstract proposition, and thereby bring the People to decide, not which candidate is the most entitled to their confidence, but who rides the finest electioneering hobby. We are misled very much, I fear, by theories, and terms, more applicable to other governments than our own. In Great Britain they peak, with great propriety, of the Government and People, because there is, in that country, an immense power, independent of the People. But, here, where every public functionary is responsible to, and the Government in the hands of, a majority of the People, those terms do not appear to me applicable, in the sense in which they are used in other countries. My reflections and practical observations on the Government, incline me to the opinion, that, with regard to measures of general policy ---not assailing

^{\$} Baring, brothers & co. are the bankers to the United States in Europe. The federal government remits and receives money through them (not the Bank of U.S.).

individual liberty or right, or the independence of any State--- there is not that danger to be apprehended from a liberal construction of the constitution which gentlemen seem to imagine. So long as the Government is in the hands of the People, measures, affecting the whole nation, if oppressive or inconvenient, will be resisted and corrected by the public feeling and opinion. This is not mere theory. Look at the State of Connecticut, one of the best regulated democracies in ancient or modern times, whose Legislature is as omnipotent as the British Parliament.

What People enjoy more real liberty and independence! In what country is to be found more practical intelligent republicanism! Those principles which secure the rights of the citizen, and the responsibility of their public servants, are held sacred; but the Legislature is, I believe, unrestricted, with regard to measures of general policy. It is a truth, which ought to be deeply impressed on the American mind, that the preservation of this republican system depends more upon the virtue and intelligence of the People, and the responsibility of their public servants, than paper restrictions. It is unfortunate, that every measure calculated to advance the national prosperity, is arrested by some constitutional difficulty. The bills respecting the Ohio and Delaware canals, which passed the Senate, have been opposed, in the other House, by the same constitutional obstacles urged against this bank. I may be asked, if I am opposed to any limitation on the powers of the Government? To which I answer, no. I think the nature of the powers to be exercised by the General Government ought to be defined with as much precision as the imperfection of human language and foresight is capable of. The convention acted wisely in giving no more latitude than was necessary to the success of the experiment. Not because I think them so essential to the security of the rights of the People, as to prevent unpleasant and dangerous collisions of authority between the National and State Governments. In the application of this instrument by the different men and parties to the ground supposed to be embraced by it, some trivial variations from what may be deemed by many the true political meridian, was to be expected, and a small allowance

is perhaps due to human fallibility. It will be some time before the boundary line will be plainly marked by usage and practical construction. So far as it has been ascertained, and any question of power settled by common consent, every consideration connected with the good of our country forbids us to disturb it. Gentlemen endeavor to alarm us with a thousand imaginary dangers: they say, suppose Congress were to do this, that, and the other monstrous thing. You may suppose any thing, and make what deductions you please. Suppose the People were to destroy their own liberties; what then? Their liberties would be destroyed. Suppose they were all to collect on the bank of the Potomac, plunge into the stream, and drown themselves; why, to be sure, they would be drowned; but does it follow that there is any danger of their doing either? All this supposing seems to accord better with a sentiment advanced by a celebrated Senator a few years since, "that the People's worst enemies are themselves," than the generally received opinion respecting the nature of this Government.

This bill, probably, is opposed by many, under an expectation of a new National Bank. As this question will at least appear to be decided on constitutional ground, their expectations will hardly be realised. Indeed, it is questionable, whether either foreigners or our own citizens will again vest money in a National Bank. The fall of this will throw a large portion of the banking capital into the banks of the great commercial States, whose influence and hostility will be increased against a new national institution. But why put down one National Bank to raise up another? How are the People to be benefited by it? I shall be told, perhaps, that the direction ought to be changed. And what will be this change? Why, putting out one set of moneyed men to put in another, who will very soon be the same. If this be the object, I will only observe,

"Strange there should such difference be,

"Twixt tweedledum and tweedledee."

It is but the difference between Hopkins and Sternhold, and Sternhold and Hopkins. A new National Bank, with an increased capital, would, to be sure, open a new field of

speculation, and increase that influence of which gentlemen pretend to complain: for, if moneyed men retain their confidence in our institutions, the same motives which induced foreigners to purchase seven millions of the present stock, will induce them to purchase the stock of the new bank. I hear, with some astonishment, gentlemen opposed to this bill, and particularly my friend from Tennessee. (Mr. Anderson) declaim, with such apparent earnestness, about the danger of this institution, with a capital of only ten millions of dollars, when I recollect the partiality they manifested for a bill before us last year, which proposed to create a national bank, with a capital of thirty millions. On the motion to postpone that bill till the first Monday in December last, in substance a motion to reject, it will be found by a reference to the journals, that most of those opposed to this, voted against the postponement. If this bank of ten millions is such a viper, a thirty million bank would indeed be a monster. Gentlemen may say, that, although they voted against postponement, they intended ultimately to vote against the passage of the bill; let this be conceded, and still their votes evince a decided preference of the new to the present institution. I voted for the postponement, because I was not entirely convinced of its constitutionality ---nor was I satisfied with the details. The banking operations of the present institution are confined to the seaboard, and may be considered a necessary and proper mean ---subordinate to the end of aiding the finances; but the bill I have mentioned contemplated an extension of branches into every part of the country, to places where the General Government had no revenue to collect, and the creation of it might perhaps be deemed the exercise of an independent original power, transcending the limit of an auxiliary measure. I do not design to give a decided opinion of the constitutionality of it at this time; other substantial objections to that bill will suffice to justify my vote, if necessary. If the object of gentlemen was to eradicate the banking system from the country, I might, in obedience to my former prejudices, be more disposed to join them. But this is not even pretended. The sole object, in the death of this, is, to generate more of these vipers, under State or Federal authority.

The People of the United States, through the medium of the National Government, have within their control that portion of the moneyed capital vested in this bank, which is not only a convenient agent, in the management of the finances, but furnishes loans to the Government, to answer occasional deficiencies in the revenue. If we relinquish entirely our power over the moneyed capital, will not the influence of the interior States be diminished, and that of the commercial States increased? The importing States will have the moneyed capital; the greater part of our revenue will be collected by their banks, and we shall not only be dependent on them for loans, but they can at any time withhold our revenue, without the interposition of force.

The sum required to be paid by the stockholders, is strongly objected to. And why, sir? Is there any thing unreasonable in this provision? The privileges and benefits, to be enjoyed by them, they will derive from the People of the United States: for which, justice requires them to pay the People an equitable equivalent. This sum is demanded in the nature of a tax on the privilege granted. The premium contemplated, with the probable advance on the five millions of stock, authorized to be subscribed by the United States, will amount to about three millions of dollars. They are to pay three per cent, on the public deposits, which will, I suppose, without pretending to have made an accurate estimate, amount to several millions more during the term of incorporation; so that this bill, if passed into a law, will bring into the national treasury five or six millions of dollars, for the benefit of the People of the United States; and what are we about to do? Why, sir, give it up to the large States on the sea board, in whose banks we are told by gentlemen on the other side, this very dangerous foreign capital will be vested, and our revenue deposited. Well may those States clamor about State rights and State interests; but how the interest or importance of Kentucky in the Union, or of any other State where none of the national revenue is collected, is to be advanced by the destruction of this institution, I am not conjurer enough to discover.

It might be contended, with some plausibility, that this Government is under an implied obligation to continue this bank upon equitable terms, and with reasonable modifications. The present stockholders, both citizens and foreigners, have paid for every 100 dollars they own, from 140 to 150 dollars. The Government sold at about that advance a few years ago. When the Congress of 1791 passed the law declaring that there should be a national bank, did they intend it to be a temporary institution? In the numerous transfers of stock which have taken place, was it so understood? Could it have been expected that a Government, which declared a national bank necessary and proper, the first twenty years of its existence, would dispense with it afterwards? The limitation of the corporation to that period was very proper. It is highly expedient that these charters should return occasionally into the power of the People, to afford them an opportunity of revising and correcting them; besides, such a limitation, by increasing their dependence, gives some security to the community against abuses. Has not the conduct of the Government authorized an expectation that this bank would be continued? And if it has, are they not bound, by the rules of morality, to fulfill that expectation, unless the constitution or public good clearly forbid it?

Although this subject has received much false coloring through the country, by charges of British influence, &c. I did not expect to hear it from an honorable Senator of the United States; it has not, indeed, been positively asserted, but hinted in such a manner, as to make an impression on the community. Some stale circumstances connected with the British treaty, have been very unnecessarily lugged in, to increase the prejudices against this bill. It has been insinuated that British influence, operating through this institution, has prevented the Government from taking strong measures against Great Britain; but in what manner this has been effected, gentlemen have not been good enough to explain. Did it prevent Mr. Jefferson from taking a war course? For I believe it is generally understood that he was opposed to a war. Has it operated upon the present Executive? Such a suggestion will not be made. I have, during my service here,

given a fair and faithful support to the administration, and I have certainly voted for stronger measures than they were willing to accept. It is due to the 10th and 11th Congresses, who have been so much abused, to state, that their course, as regards the question of peace or war, has been in perfect unison with the views of the late and present Presidents. Let it not be inferred that I am disposed to find fault; I believe, when we consider the very extraordinary state of the foreign world, and retrospect the embarrassing circumstances which have surrounded us, the course pursued by them ought to be deemed substantially correct, certainly so as respects their leading object, which has been to avoid making this country a party in the present war. If I was disposed to censure, it would be for not making an effort to chastise some of the British armed vessels, which lay in our waters after the affair of the Chesapeake, in open contempt of the President's proclamation; if a single vessel had been driven out or compelled to strike her colors, it would have healed the wound inflicted on the national pride and feeling, by the outrage by the *Leopard*.

That this Government should have an influence with foreign Governments, proportioned to the interest their subjects have in our funds, is probable, but how this interest gives them an influence here, I am at a loss to perceive: foreigners cannot even vote in the appointment of directors. If there is any reality in this idea of foreign influence through this institution, why did gentlemen permit the present stockholders to be incorporated into the bill introduced last year? And why was not a provision inserted, to prevent foreigners from purchasing additional stock?

We are told, too, of their partiality in discounts. I might answer this argument, by asking, what bank or what administration has not been partial? What member of this Senate has never used his influence in favor of his friends against men, perhaps, of more merit? If partial evils or small improprieties, are to authorize a war of extermination, against our institutions, none would prove so immaculate as to escape the general catastrophe. By the bill reported, an odious feature in the present charter, granting an exclusive privilege,

is expressly repealed, and the Government authorized to subscribe stock and appoint directors. This will give us a sufficient control to guard against all the evils, real or imaginary, which have been complained of. I have heard no gentleman advocate a simple renewal of the charter. This charge of partiality, on the score of party, at least for the last twelve years, has been completely repelled by the deputation of five from the mechanics and manufacturers of Philadelphia, and let it be remembered, too, that these men are republicans of the first water. We are arraigned, sir, for the great attention and respect shown to the two deputations from Philadelphia, one in behalf of the mercantile, the other of the manufacturing interest; from the latter we derived the most of the facts which have been detailed to the Senate. They did not come armed with any political resolutions, to influence our deliberations; no, they were sent to represent the embarrassments of the commercial and manufacturing classes in Philadelphia, arising from the apprehended dissolution of the bank. And was it improper in the committee to hear them? Their candor and respectability were not doubted by those of the committee most opposed to the bank. Is any thing more common in England than for Parliament to hear witnesses, and even counsel, in behalf of any class of men whose interest is supposed to be affected by a measure depending before them? And shall we deny to American citizens privileges enjoyed by British subjects?

Gentlemen say the embarrassments in Philadelphia could not have been occasioned by the Bank of the United States, because they continue to discount as usual. If I recollect the evidence, and I hope to be corrected if I mistake it, it was this: that the calling in of ten per cent. on their debts occasioned such a pressure, that they were prevailed upon to extend their discounts, until the ultimate decision of Congress should be known. I have heard it seriously urged, that the evils and inconveniences to be experienced from its dissolution, prove it to be a dangerous institution; the same argument would prove that the Government ought to be destroyed. Nothing, indeed, seems too absurd for the human mind to seize upon, when under the influence of passion or misguided zeal.

I must omit, Mr. President, many of the remarks I intended to offer to the Senate, on this bill; I owe it to other gentlemen, who wish to express their views. Before I sit down, I beg leave to say a few words about the liberty or tyranny of the press. Tyranny is, to me, sir, a hideous fiend in every possible form. A press, well conducted, is invaluable; but this palladium of our rights may, if permitted to exercise an undue influence, be made the instrument to entomb the liberties of this People. With what indignation would an attempt, through the medium of the press, to intimidate a court or jury, in relation to a controversy while pending, be viewed; and what course would be taken? I need not answer the question. And is it not equally important that our deliberations should be free from any improper and irresponsible influence? After I have given my vote, I am ready to meet investigation; but this system of abusing and denouncing members who may speak or vote for or against a measure depending before Congress, is a monstrous outrage upon the independence of the National Legislature; and every attempt of editors to influence their decision by assailing or exciting unfounded prejudices against them respecting a subject upon which they are deliberating, ought to be reprobated and resisted by every friend to his country.

If it is once understood that Congress are controlled by the dictatorial arrogance of the press, what will be the consequence? However pure the presses may now be, if it should become an object with a foreign nation to give a direction to our measures, or of a junto of assassins behind the curtain to proscribe every honest independent man from the confidence of the People, a sufficient number of them will be purchased at any price; and through this medium, if well combined and organized, an unseen power will guide our councils.

My honorable friend from Georgia has been reminded of the Macedonian phalanx. I trust, sir, we shall ever be found associated with a phalanx, American, republican, in heart and in sentiment. I will not sacrifice the interests of my constituents, for fear of being called hard names. The epithets of quidism, quadroonism, or any other *ism*, which malice or

policy may suggest, shall not drive me from the course called for by the public good. I am proud that I represent a People, just, generous, and independent; not to be carried away by unmeaning clamor. Before they discard a public servant, they will view him, both on the political theatre, and in the walks of private life. They know, too well, that those are not always the best Christians, who sing hallelujahs on the house top; nor have they forgotten the celebrated Sempronius, who, on the approach of Caesar, thundered war in the Roman Senate, and at the same time was secretly co-operating with the traitor to overthrow the liberties of the Roman People.

Deeply impressed, Mr. President, with the opinion, that the rejection of this bill will give, at least, a temporary check to the prosperity of the rising State from which I come, I shall give my negative to the motion to strike out the first section. Yes, sir, not only the interest, but the importance of that State in the Union, is about to be sacrificed. When I look beyond the mountain, and remember that Kentucky has nurtured me almost from my cradle ---that she has bestowed on me her choicest honors--- my bosom is filled with emotions of gratitude, which impel me to say, on this, as on all other occasions, Kentucky, I am only thine !

Saturday, February 16, 1811.

The Senate resumed, as in Committee of the Whole, the bill to amend and continue in force an act, entitled "An act to incorporate the subscribers to the Bank of the United States, passed on the 25th day of April 1791;" the motion to strike out the first section being under consideration.

MR. SMITH, OF MARYLAND, said, that, in seconding the motion to strike out the first section of the bill, he had pursued a course, which, in his opinion, was the most correct. When I first took a seat in Congress (said he) the course of proceeding was to fix the principle by resolution, and that once fixed, to send it to a committee to report a bill. By a motion to strike out the first section the principle will be tried, and the Senate, if the motion fails, will go into a discussion of the provisions of the bill. This I conceive a better course, than for the Senate to go into discussion of the details of a subject which would probably be ultimately rejected on the general ground of principle.

The gentleman who introduced this subject spoke with great animation and with great feeling against the press or presses which have undertaken to give their opinions upon this great, and important question. He spoke with warmth, and said that whoever knew him would not believe that he would permit himself to be driven out of his opinion by any man or set of men. There is no man, sir, the least acquainted with the gentleman from Georgia (Mr. Crawford) but will believe his declaration. But another result may be apprehended; that those who feel so great an offence at the freedom the press has taken, may be driven into the opposite course by the irritation of their feelings. Certainly those feelings must have been extremely strong with the gentleman from Kentucky (Mr. Pope) to have induced him to terminate his speech with an oration hostile to the liberty of the press. Are the gentlemen from Georgia and Kentucky the only Senators who have had their feelings wounded by the conduct of the press upon this subject? Sir, if the gentleman's opinions and sentiments have been censured by one description of presses, he may find consolation in having been greatly eulogized by others. For more than a year, those on

the same side of this question with myself have had their opinions tortured into every shape, to destroy them in the estimation of the People; not only in this session but during the last. Sir, there are some presses in the Union which could not exist, whose papers would not be read, but for the discussion of individual character. Is any advantage to be derived from complaining of this? It results from the nature and temper of our Government, and the best way I have ever found to treat it, is, with silent contempt, he who does otherwise engages in the contest at a great disadvantage, and will seldom come out the victor. In the same presses of which those gentlemen complain, I have seen them both eulogised, and properly, for their conduct on the subject of the embargo and West Florida questions.

If the press be an evil in this respect, we must submit to it; those gentlemen who take a high and prominent stand must expect to be noticed. Sometimes gentlemen will be put down by the press, but (their conduct being correct) will more frequently be written up by its abuse.

It has been objected that this question is discussed on the ground of party; and the gentleman from Georgia, as I understood him, said, that this had been made a party question elsewhere, and might be so here.

[Mr. Crawford said he had mentioned no place, but had said that this might be made a party question.]

I understood the gentleman to say (said Mr. Smith) that this may again be made a party question. But for this observation of the gentleman, the subject of party would probably not have been introduced at all; and we must indeed shut our eyes, or we cannot avoid seeing that this is made a party question, at least on one side. Do you see one gentleman, one solitary gentleman of one party, discriminated generally a federal, who does not vote for this measure throughout? Do you see one public body in Philadelphia or New York, which has a majority of federal directors or agents, which has not come before you with memorials drawn up with the ingenuity of lawyers, to impose on your judgment? Have not the same party prepared memorials, and got the subscription of every one of their caste, bringing forward

nearly the same number of petitioners as they have of federal voters? Have they not done so in Baltimore? Of that city I would say as little as may be: for, being a manufacturing as well as a commercial city, it has stirred up an animosity in some gentlemen against it, not easily accounted for. In Baltimore, on a warmly contested election, the federal party mustered **814 votes**, all they could parade with every exertion. To the petition for the renewal of the charter of the bank there are **810 odd signatures**! They have gained some few since the last contest. Is this coincidence of numbers, this exclusively federal petitioning, no mark of party? They have also got one public body in Baltimore to memorialise in favor of the bank; the rest were not to be intimidated by the threats of the Bank of the United States. What, sir, have the other party done? Have they disturbed the quiet of either House? Have they brought forward the mass of their voters as signers to petitions? No, sir, they have trusted the subject to their Representatives, confiding in their disposition and ability to speak their sentiments. The representation of New York, Philadelphia, Baltimore, Norfolk, and Charleston, in the other House, have opposed the renewal of the charter. Every city, high in estimation as a commercial city, is opposed to the renewal of the charter, except Boston. This speaks with a strong voice what are the feelings of the People; stronger evidence cannot be presented to the human mind. Far be it from me, sir, to endeavor to work up the feelings of party spirit on this occasion; but the thing itself was one of the first causes which created the present parties, and separated man from man, and brother from brother.

This measure was originally brought forward and adopted when the representation in Congress was not bottomed on an actual but supposed census of the People of the United States. Sixty-five members composed Congress[§] then, which was a representation taken by accident. If a proportionate representation had been given to the States, according to their population, the law probably would not have passed. The States of North Carolina and South Carolina had each five representatives, being thus placed on an exact equality. Now

§ He means the House of Representatives.

North Carolina has twelve, South Carolina only eight. What was the vote then? Out of sixty-five members, thirty-nine voted for the bill. It was not, as my friend from Kentucky said, a subject not fully discussed or carried by a tremendous majority.

The bank having been formed, it may not be improper for me to take some view of its beginning and its operation. At first, its operations were confined to Philadelphia; it extended its branches, some time afterwards, to Boston, New York, Baltimore, and Charleston. Wherever it extended its influence, dissension commenced; wherever it placed its foot, it became absolutely necessary for the States to erect another bank, to counterbalance its pecuniary and political influence. In Philadelphia it began to oppose certain people, and turn down their paper. The State of Pennsylvania, in defence of its own citizens, created the Bank of Pennsylvania. Here was a check upon its pecuniary and political operations. I believe I am not mistaken when I say, that, soon after it commenced in Boston, a new bank was established there, from what cause I know not. In Baltimore, sir, it soon taught us a lesson, and we met the lesson as other States had done. Charleston and New York acted in a similar way. Operating as the bank did, on the politics of the country, before its effects were neutralised by competition, man being man, place him where you will, those concerned in the direction of the bank felt power and exercised it. When the British treaty was pending before Congress, the president and directors (as I am informed) themselves, carried about a memorial to Congress in its favor, with what view, and with what effect, may easily be conceived. In Baltimore (until we were able to check them by other banks) its political influence was great. Prior to the great struggle between the parties, in 1798, they did permit one democrat to be within the walls of the sanctuary, (as a director) a gentleman of as much respectability and independence of character as any one of the direction. He was, however, (immediately after daring to give his vote in favor of a democratic candidate) put out; and since that time no man of democratic principles has been permitted to enter its walls as a director.

Men must shut their eyes to the fact of this being a party institution, when they see that no democrat has been admitted to the direction of the bank, but in this city, and New York, where the collector was admitted as a director, for the purpose of protecting the public money, at the instance (it is said) of the Secretary of the Treasury. Can we shut our eyes so as not to see that men hostile to the democratic party, and of course to the success of the administration of the Government, are not the most proper persons to have charge of its pecuniary concerns ? I would have been very unwilling to have gone into this part of the subject; but when the gentleman from Kentucky, scarcely able to retain his rage, cried out, party! party! I was bound to show that it was not those with whom I act, who had any agency in pressing the subject of party into the present discussion.

The gentleman from Kentucky reprobates the system of petty mischievous intrigue, for the purpose of carrying measures through Congress. No man, sir, despises or contemns such conduct more than I do. But on whose side has this intrigue been ? It is necessary to put the saddle on the proper horse. Have we gone to insurance companies or corporations of one kind or another ? Have we intrigued with the People, to induce them to take sides with us ? No, sir, we have been tranquil; we wanted no aid of that kind. Have we sent persons here to intrigue with members, or a deputy to remain here the whole of the last and present session, to explain to Congress the effect of putting down the bank, and threaten them with destruction and ruin to the United States, if they passed the measure ? No, sir, we have had no one here. Have we stirred up the People in town meetings, to aid us by memorials ? No such thing, sir. Have we called meetings, and induced honest mechanics to come here to influence Congress by idle fears, impressed upon them by those who are interested, to tell a tale that shall answer our purposes ? No, sir, we have pursued no such course.

Respectable merchants, I observe, form a part of the bank deputies ---for what ? To represent the late fall of the price of flour as a consequence of the danger of the bank charter not being renewed, and thereby to alarm the minds of members.

I am sorry that men of such respectable character did permit themselves to come here on such an errand. I think I have seen in the papers that one of the manufacturers (now here) on being asked to sign a petition for a renewal of the charter for twenty years, said, he would rather cut off his right hand than sign it; he wished for a renewal for a short time, to give the bank an opportunity to wind up its affairs. If this statement be true, and of its truth I have no cause to doubt, it shows the depth of that intrigue which sent this gentleman here, through the instrumentality of his excellent character, to get a renewal of the charter for a period which he never contemplated. These are intrigues for which men ought to blush, and from which, I thank God, we are exempt. At the time these deputies arrived, there were three mechanics of Baltimore here, of character inferior to none, and of wealth inferior to few in Philadelphia, and who would have given a different view of the subject, if they had been asked to appear before the committee. I thought it unnecessary ---I wanted no assistance of that kind, no species of intrigue. They did, however, declare, sir, that granting this charter would be a death blow to the politics of the State of Maryland. They did believe the renewal would be injurious to them: for neither they nor many of the manufacturers of Baltimore had received much advantage from the branch bank. They had their own banks, from which they generally received accommodation.

Another species of intrigue is carried on, to wit: by pamphleteering. The press is groaning with pamphlets for what ? To teach the minds of members, on this question, the necessity of renewal, and probability of destruction to the nation, if their demands are not complied with. Our tables are covered with pamphlets of that tendency. Has there been any thing of the kind on our part ?

I will now take a view of a part of the subject, into which, permit me to say, I have been pressed by other gentlemen, to wit: What has been the operation of the bank, in regard to the collection of duties, prior to 1800 ? Prior to the institution of the bank, the collectors took the bonds of the merchants for duties, received the money, and deposited it for safe-keeping in the State banks, where there were any. After the bank was

erected, it had (for some time) but two branches; still the revenue was as well collected, (I am informed) where the branch Banks of the United States were not, as where they were; and yet (it is said) we cannot have that reliance or confidence in the banks of the States as we can on the branches of the Bank of the United States. The gentleman from Massachusetts told us that in five New England States there was but one solitary branch bank; and I could not find, from any thing that the gentleman said, that he apprehended any distress would overtake the New England States. The gentleman from Kentucky (Mr. Pope) told us that, in Boston, the branch was the great bank of deposite; that, in the trifling out-ports, it was not of so much consequence to have branches, the whole collections being drawn into the branch bank at Boston. In order to show that there is an absolute necessity for these branch banks in the collection of the revenue, the gentleman ought to show that the company can place a bank wherever money is to be collected, without enlarging the present capital: for, if it were extended beyond its present amount, his conscience would be pricked: for, (if I understood him) he does not advocate the constitutionality of the bank, if its capital was extended beyond what he supposes to be necessary.

[Mr. Pope said his idea was, that a bank of thirty millions must extend its branches where there was no necessity for them, and where banks of another description were competent to all the ordinary purposes of society.]

And of course, said Mr. Smith, if the capital extended beyond the limits of the gentleman's idea of necessity, it would be doubtful whether it was constitutional or not. Can a ten millions bank extend itself, as the gentleman contemplates, to every place where the United States have moneys to collect? In the State of Massachusetts there are twenty-three collection districts; Boston owns 83,000 tons of shipping; the only branch of the United States' Bank in the State is in Boston, whilst the other ports of that State own 200,000 tons shipping, and have no branch in any of them. The gentleman from Kentucky erred extremely, when he supposed that those towns in Massachusetts which had no branch were of little

importance. In the town of Salem, where there is no branch bank, there is, perhaps, more East India trade than from any town in the United States; the town of Nantucket, also, is a great trading place; the town of Portland is a great trading town, and there are a number of other towns of great commerce in Massachusetts, none of which have a branch bank; and yet I am informed, from high authority, that there are no towns in the Union where the revenue is better collected than in those towns. The branch bank at Boston, then, may be considered as a treasury chest, and has nothing to do with the collections; an office, where the Secretary of the Treasury keeps an account, to know whether the State banks transmit the money properly to Boston or not. I have been informed, sir, by the Comptroller of the Treasury, that nowhere are collections better made than where there is no branch bank. It is among the most ridiculous of all ideas, to say that the bank has any influence on the payer of the bond. The influence on the payer is this, and this only, that, if the merchant does not pay his bond when due, he has no longer credit at the custom house; he is compelled thereafter (and until his bond is paid) to pay the cash for all duties, and in that way only does he suffer.

I agree with the Secretary of the Treasury, that the creation of banks has contributed to produce the greater punctuality of payment; but this arises as well from the State banks as from those of the United States. A note given to an individual now, must be paid, or the credit of the signer is lost; but that has no operation as to the collection of the revenue. In case of non-payments of bonds, what course does the bank pursue in relation to custom house bonds? The same as with ordinary notes. If the bond be not paid when due, the cashier returns it to the collector, who puts it in suit. The bank is a mere place of deposit for the safe keeping of the bond, and has no farther interest in, or discretion over it, after its payment is refused.

There are in the United States, including the territories, ten banks, emanating from, and including the mother bank of the United States, and without these banks we are told the revenue cannot be collected. This does appear to me to be

one of the most extraordinary arguments that ever entered the mind of man. Let us examine it. In the State of Massachusetts there is but one bank to collect from three and twenty ports, possessing, independent of Boston, one-fifth of the whole tonnage of the United States; there is no Bank of the United States in Connecticut, and yet Connecticut pays her duties as punctually as any State in the Union; there is no branch in Rhode Island, and whoever heard that Rhode Island did not pay her duties punctually? Maryland has eight ports and but one branch. Virginia has eleven ports, and no branch but a little one at Norfolk, whose operation is confined within the limits of that town. Where there are no branch banks of the United States in the ports of that State, (Richmond and Petersburg for instance) the duties are better paid than where there is a branch ---I am authorized to say so. In North Carolina there is no branch bank, and yet there is no difficulty whatever in the collection of the revenue. South Carolina has a branch bank. Georgia, with four ports, has but one branch.

My object (it will be observed) is to show, that the revenue has been as well collected where there were no branch banks, as where they have existed. Let me tell the gentleman (Mr. Pope) that the banks of the United States afford no facility in the collection of the revenue, that it is possible for them to avoid. I state this, as deducible from the report of the Secretary of the Treasury. He states that there is in the Bank of Manhattan 188,000 dollars of the public money. From what cause did it get there? The truth (it appears) was, that the branch bank of the United States in New York refused to receive Connecticut or Rhode Island paper, and the Secretary of the Treasury was compelled to deposite it in the Manhattan Bank, which bank had agreed to receive that paper. Here, then, sir, we see that a State bank, although it gains no advantage from the deposite of New York, yet has accommodated the treasury by taking and accounting for the bank paper of Connecticut and Rhode Island, and placing it in a situation in which it can be made use of with facility.

Again we find that, in Georgetown, the Bank of Columbia has a deposite of 115,000 dollars of public money. How did

it get there ? The Secretary informs us, in his report, "that the deposits in the Bank of Columbia arise from occasional drafts on some collectors in Virginia, and from the receipt of moneys, paid at the treasury for lands, patents, &c. in bank notes not receivable at the office of discount and deposite, Washington." That is, sir, the branch bank of Washington refused to receive Virginia paper from those collectors, and refused to give any aid or assistance in the collection of the revenue, except that which went to their own emolument. Not so with the Bank of Columbia. It opened its vaults to all; and if any man desires it, he may deposite in the Bank of Columbia, the paper of Virginia, Maryland, or Pennsylvania, and the cashier will give him a check on some one of the banks of those States for the amount. This they will not do in the branch bank. Do gentlemen suppose that the notes of the United States' Bank pervade the whole United States ? No, sir, they do not. Does a gentleman representing Ohio bring bank notes of other States to pay for his constituents for land bought of the United States, or debts due in Philadelphia ? Can he go to the branch bank and pay them ? No, they are not bank notes of the United States, but of the individual States, and the branch bank at Washington will refuse to receive them. The Bank of Columbia (on the contrary) will receive them, and will (if he wishes) pay the money in Baltimore, Philadelphia, or New York, or will pay it here into the treasury. What bank is it that collects the revenue derived from the sales of western lands ? Not that of the United States, which is represented as indispensably necessary for the collection of the revenue. No, sir, the collection is made by the Bank of Pennsylvania, which bank established a branch at Pittsburg, and collects the money due the United States, from the purchasers of public lands, as stated in the report of the Secretary of the Treasury.

There has been one great mistake entertained by a gentleman, (Mr. Lloyd) with respect to New Orleans. He supposes that there is no territorial bank in that city, and asks how the collection of duties will be made without one. The Bank of the United States there, has a capital of only 300,000 dollars; that of the territory has 600,000 dollars, as good a

bank, too, as any in the United States. And (notwithstanding what has been said) the banks of New Orleans are in as good credit, and have more specie, in proportion to the population of the city, than any banks in the United States. If we should be fortunate enough to obtain a majority for destroying this bill, the gentleman need be under no apprehension for any injurious result arising at New Orleans. The public money will be as safe there as in any bank, and we shall find as honorable men directors of the territorial bank, as in that of the branch Bank of the United States established in that city.

There is scarcely an evil which has not been attributed to the embargo, and which is not now (with as little justice) attributed to the expected non-renewal of the bank charter. Great failures have lately taken place at New York; bills of exchange on London, to a large amount, have returned protested, and the drawers are not able to pay the holders; and to the present critical situation of the bank some gentlemen attribute the distress brought upon those who have suffered by these failures and protests. But, Mr. President, what is the real cause of those failures ? They are confined principally to New York, and may be attributed to the following causes: It is natural for men born in Great Britain to entertain predilections favorable to a commerce with that country; their connexions, as well commercial as of family, are there; their credit is there; and from those causes, the house which has failed, and carried so many others with it in its fall, has probably directed the principal part of its commerce to England; they have no doubt shipped cotton and tobacco, the trade in which being in a great measure confined to Great Britain, the natural consequence has been, that the markets of England were completely glutted; tobacco (except the very fine Virginia) scarcely paid the charges of freight and commission, and the loss on cotton must have been near fifty per cent. The consignees, under those circumstances, refused to pay the bills drawn upon shipment of those articles. The bills returned protested, and ruin to the American shipper has been the consequence. At any other time, the English merchants would have accepted the bills, and held the cargoes for a better market; but, at that time,

ruin stared every man in the face. No man in London knew who to trust, and very few would enter into engagements which they saw any difficulty in meeting. No censure ought to be attached to the American shipper: for, by the usage of trade between the United States and Europe, the American merchant is entitled to draw for two-thirds the amount of his cargo, on transmitting invoices and bills of lading with orders for insurance.

Other causes have existed to cause the present distress in New York and elsewhere, to wit: the seizure, detention, and confiscation, of property in Denmark, Prussia, and France, of ships and cargoes to the amount of many millions, on the proceeds of which cargoes, merchants calculated to meet their engagements at home, and to meet their bills drawn on London: for, sir, the merchants who make large shipments to the continent, order the greatest proportion of their proceeds to be remitted from thence to London, and on the expectation thereof, draw bills on their friends there. Disappointment has been the consequence of such seizures and losses; protests of such bills and ruin has followed. But, Mr. President, we might (with as much propriety) attribute the late great failures in England and on the continent to the expected non-renewal of the bank charter, as those which have happened in New York, or the present distress of the merchants in the United States. The returns of the bills protested to so large an amount, of course destroyed the merchant's credit at bank; he failed, and, by his fall, has caused the ruin of others.

When a great house fails, it is like a game of nine pins; knock one down, and it will probably carry with it four or five others. When the honorable gentleman, up yesterday, made an observation on the remarks of my friend from Tennessee, (Mr. Anderson) he certainly was not warranted in what he said. He supposed that my friend from Tennessee gave a vote at the last session different from that which he should give now. I can only say, for him that he (Mr. Anderson) then said, uniformly, "make your bill as good as you can, but I shall vote against it on constitutional grounds." He wished the bill perfect if it should pass, though he was fully determined to vote against it.

We have been told, Mr. President, in case the charter should not be renewed, that we shall find, in future, great difficulty in obtaining loans. What loans, I ask, have Government ever received from the Bank of the United States ? I recollect, when I first entered Congress, that Government were indebted for loans made from the bank, but I also recollect, that the bank complained of the loans as an inconvenience, and that Congress took the earliest measure in their power to pay them off, and have, since that period, made no new loan from the bank, until that made payable the 1st of January last. I will not inquire whether even that loan was necessary, but I will venture to promise, sir, and will give any security that may be required, that the State banks will give a similar accommodation, to wit: If the Secretary of the Treasury will deposite with the State banks 2,500,000 dollars of the public money, (the amount of the late loan) they will lend Government to the same amount, and thus do as the Bank of the United States has done, [lend you your own money](#), and very kindly receive from you an interest of six per cent. therefor.

We are told that the bank has lately lessened the discounts of individuals 10 per cent. and that the merchants are thereby greatly distressed. Is that a fact ? If it is, and great distress has ensued therefrom, what will be the distress of the merchants if the bill now before you shall pass, and if, agreeably to its provisions, Congress should, at any time hereafter, call on the bank for the loan of four millions, promised by the bill ? If, sir, a lessening of their discounts one-tenth per cent. creates distress, what will be the consequence, when, by a loan of four millions, called for from the bank, the bank shall be compelled to lessen the discounts four-tenths ?

But, sir, the promise to lend four millions from a bank of ten millions, is idle; it is worse, it is deception on the face of it. The loan, if made, would not be from the bank, but from the merchants, whose discounts would thereby be lessened, and whose ruin would follow.

We are told that, if the charter of this bank be not renewed, and the funds of the United States be deposited in the State banks, it will be extremely unsafe, because it is said

we can have no control over them. And I wish to know, sir, what control we have over the Bank of the United States ? None, but the same as we may have over the State banks. We cannot check the operations of the Bank of the United States; and if they obtain this charter, they will know that they can have their charter renewed whenever they please; so that the fear of a non-renewal of their charter will have no operation on them in future. You will have a much greater control over the State banks, because you are under no obligation to put money in them, and you can change them whenever you think proper; the danger of losing the public deposits will always be a sufficient control over their conduct. The security of the State banks is doubted, however; and we are told, very gravely indeed, that there is much more security in the mother bank and her nine children, than in ten independent banks. This I must deny. I should, as a merchant, place more continence in ten independent houses, than in one with nine branches.

At this point, Mr. Smith ---being unwell--- gave way for an adjournment.

Monday, February 18, 1811.

MR. SMITH, OF MARYLAND, continued and said--- He was not in the habit of asking the indulgence of the Senate, but on the day he spoke last he had been very unwell. He then had occasion to observe, in answer to the arguments of the gentlemen, on the course of proceedings by the bank on its first establishment. It has been observed, (said he) by an honorable gentleman from Kentucky, (Mr. Pope) "that the question on the Bank of the United States was not originally a party question, and had not excited much sensibility at the time." When first this question came before Congress, sir, it excited not a little sensation. The doings of the convention having been recent, were then fresh in the minds of such of the members of Congress as had been in that body. To them it was well known, that an **unsuccessful attempt** had been made, in that convention, to give the power of **creating charters**. The subject, it is well known, was very fully and amply discussed, on the passage of the charter. The

honorable gentleman from Georgia has, in the course of his argument, disclaimed all authority, and depends (as every gentleman should) on a fair construction of the instrument itself. Not so with my friend from Kentucky (Mr. Pope), he bottomed himself on authority, and called to his aid the great name of Washington. He told us, also, of the able support that measure received from a gentleman, for whose virtues and talents he always had the highest respect, although generally differing from him in politics ---he meant General Hamilton. He also called into his aid the opinions of the present Secretary of the Treasury. These, sir, are powerful authorities. General Washington, it is true, signed the charter, and gave it the sanction of his name and authority. But, let it be recollected, sir, that General Washington demurred on the bank bill till the last hour of the ten days, and that he signed it reluctantly at last. He took the opinion of the then Secretary of the Treasury, Mr. Hamilton, on the subject; it was an able one, and he being at the head of the Treasury Department, it had, in consequence, a powerful effect on the mind of General Washington. It was as ably resisted, in point of argument, by the late President of the United States; and however high may be my opinion of the talents of General Hamilton, I must venture to believe that, in point of a discriminating mind, Mr. Jefferson was no ways his inferior. The charter, also, was opposed by the then Attorney General of the United States, (Edmund Randolph) a man inferior to few in point of legal knowledge; and, but for the impression made on General Washington by General Hamilton, (whose being at the head of the Treasury Department added great weight to his opinion) he probably never would have signed it. In the discussion of that question, a very able part was taken by Mr. Madison. The name of that gentleman, as President of the United States, has been made use of by the gentleman from Kentucky; I am not certain that we are entirely in order, when we undertake to bring into debate the name and opinions of the President of the United States. It having, however, been done, I presume that I shall not be out of order in pursuing the same course. The arguments of that gentleman, on that occasion, add another wreath to his fame.

Neither was its rejection less ably advocated, on that day, by my friend from Virginia, Mr. Giles. In point of authority, I produce these, as at least equal to those brought forward by my friend from Kentucky. We are, therefore, left, as we ought, to exercise our own judgments on this instrument itself, the authorities being counterpoised.

I have already, sir, taken a short view of the course of the proceedings by the bank for the collection of the revenue. Permit me to pursue that point. Prior to the establishment of any branch bank in the United States, the collectors, as I have already stated, did collect each for himself; and after the money had been so collected, they paid it over into the banks, either of the States, or of the United States, where it was deposited for safe-keeping, the banks being accountable to the treasury for the amount. There was no difficulty, at that time, that I ever heard of, in conveying the public money wherever the exigencies of the country might require. After the branch banks were extended, no use was made of them, but as places of safe keeping for the public money. They had no instrumentality whatever, in the collection of the revenue, prior to the year 1800; simply treasure boxes, (if you please) in which the public money was deposited. This was the course of business for nine or ten years after the charter of the Bank of the United States had been created. No use, I repeat, whatever, (for nine years of its existence) was ever made of the bank or its branches, for the collection of the revenue; they were mere places of safe deposite. If they were necessary and all-essential, why were they not necessary, and equally essential, at all times ? Was not the revenue equally as well collected, for the first nine years of their existence, as it has been since, and with as little loss to the public ? In 1800, a bill was brought in and passed. If my recollection serves me, I was the author of it. My object, whether I was the author of it or not, was not to aid the collection of the revenue.* Such an idea never entered my mind. I knew the collection of the revenue was then well made. What, then, induced me to

* The title of the Act of May 10, 1800, was:

An Act supplementary to an act, intituled "An Act to establish the compensation of the officers employed in the collection of the duties on imports and tonnage."

bring in, or advocate that bill ? It was this: the collectors gave bond and security when they entered the office; I feared that they might aid those gentlemen who became their securities, and, from time to time, lend to them (for their private uses) the public money. It appeared to me that it was to the private interests of the collectors, as well as the public interest, to deposite the bonds taken for the revenue, in the great towns, within the banks of the United States. Prior to 1800, the collectors took the bonds themselves, and kept them in their offices. To put it out of their power (if they were so disposed) to lend their friends the public money, I was induced to support that bill; and I have no doubt that it did save the public money, in some instances, from the effects of the failures in 1798. The bonds, in the six great towns, were, after that, as the law of 1800 directed, deposited in the bank and its branches, and collected by a short notice being sent from the bank to the merchant, to wit: that his bond became due on a certain day, and the bonds were, ever after, paid into those banks. The banks had no instrumentality whatever in obtaining (except in that way) payment of those bonds. Compulsory process was not found in the Bank of the United States, but in the revenue laws; if the debtor did not pay the bond when it became due, he lost all credit at the custom house, and must therefore pay cash ---he is put under the ban. This is a lien on his punctuality, and it is such a lien as secures to Government the punctual payment of the revenue. However unable the merchant may be to pay the debts due to individuals, every exertion will be used by him to pay the debts due to the United States, for his bonds. I trust that, from this practical exposition of the operation of the banks, (and as far as my information goes, I am bold to say it is a correct one) that no gentleman will doubt that State banks will be as efficacious in the collection of the revenue as those of the United States have been.

But, in the event of a non-renewal, we are asked how are we to pay the army and navy, and the public officers? Precisely in the manner we have always paid them ---through the instrumentality of the banks. At New Orleans, (where a great part of our army now is) the public money will be

deposited in the bank of that territory, consisting of a capital of \$600,000 ---a bank, as well and as honorably conducted as that of the United States. For a draft of the paymaster of the army of the United States on that bank, the deputy paymasters will have the option to take either paper or hard dollars. I may add, that the territorial bank paper is as well received, and in as good credit, as the paper of the branch bank at New Orleans. How is your navy generally paid off? By a treasury warrant on the Bank of Columbia, (which is not a branch bank) and which is paid in branch or other paper, at the option of the holder. Would this paper, by such means, be made a coin of the United States? No, sir, it would have no such effect. If, however, the purser of the navy should ask specie for his treasury warrant, the Bank of Columbia would give it to him; it is at his option to take the one or the other. In like manner your public officers will be paid.

In what paper, the gentleman asked, will your duties be collected? In that kind of paper which the collectors, or the Secretary of the Treasury, will think as secure as that of the United States. If a merchant offers to pay his bond with paper not approved of by the cashier of the State bank, (where the bonds are deposited) he will refuse to receive such paper. What will be the consequence? The merchant must pay approved paper or specie, or his credit will be lost at the custom house; the consequence, I have already stated. As I have observed, sir, let the gentleman look into the respective States, among the farmers, merchants, and planters, of the interior, and see what proportion of the paper in circulation is that of the United States. I venture to say, not one for ten; and it arises from this circumstance, that the agents and factors of the farmers and planters do business principally with the State banks.

But, Mr. President, some kind of inconvenience, it is thought, will result from the dissolution of the bank, because its paper is an universal medium. Sir, there will be an understanding between the banks of the different States; and the Secretary of the Treasury tells you that arrangements are nearly completed to attain that object; the Secretary does not complain of the inconvenience that some gentlemen appear

to apprehend. I am of opinion that the more accounts the treasury opens with the State banks the easier will be the transmission of the public money. What is the present mode of making remittances, by individuals, from New York to Richmond? A merchant in New York wishes to purchase five hundred hogsheads of tobacco in Richmond. If he applies to the branch bank, and says he wishes to make a remittance for the purpose of purchasing tobacco at Richmond, the branch bank will not, cannot aid him; but if he applies to the Manhattan, Farmers', or Mechanics bank, they will take his money, and give him a check on Richmond to enable him to make his purchase. Here, then, is a convenience not afforded by the United States; Bank and its branches. In the same way will the State banks act in relation to the funds of the Government. The Government wants \$100,000 in New York. They have it not there, but have it, however, in Richmond. All the Secretary of the Treasury will have to do, will be to direct the cashier of the Virginia bank to send \$100,000 to New York. It is done every day for individuals, and no inconvenience is experienced! Suppose a merchant in New York wants to buy a cargo in Baltimore; he applies to the branch bank in New York, takes out their notes, and sends them to Baltimore to buy his cargo; he will apply to the branch bank of Baltimore, and say, "here are notes of the branch bank of New York; give me money for them." No, sir, the cashier will not receive them; the branch bank will not take the paper even of the mother bank. They may do it to oblige particular gentlemen, but they are not obliged to do it.

I have said that the paper of the mother bank is not a payment to the branches; nor are the bank notes of the branches to the mother bank. Each branch is bound only to receive its own paper, and not that either of the bank or any of its branches. For in stance, lately, (as I am informed) the branch bank of Baltimore being called on by the mother bank for specie, applied to the Union Bank for specie for a debt due by that bank of \$50,000; assigning as a reason that they were called upon for specie by the mother bank. The cashier of the Union Bank said as was natural, we have notes of that bank to the amount of \$100,000 we will pay you in them; her own

paper will certainly be as good a payment to her as specie. No, was the answer; you must give the specie; and the specie was paid. The Union Bank was, in consequence, compelled to send to Philadelphia, at its expense, for payment of the notes which it held of that very bank. A similar transaction (I have been told) took place between the Mechanics' Bank of New York and the branch bank of that city. I state those cases to show that the paper of the mother bank is not a universal medium, not even payment to her own branches: whereas, in the understanding which exists from Richmond to the Bank of Columbia, from the Bank of Columbia to the bank in Baltimore, and thence, to New York, the paper of each will be received by each, and when too great a balance exists against either, its paper is sent to the debtor bank, for which it returns specie.

I cannot believe that any gentleman can seriously suppose that bank paper can be considered as coin. It is true, that, by your law, all the paper of the mother bank and its branches, is receivable in payment for duties; but it is not a currency in all cases, because it is not a tender in any, except for duties, and if I owe a note at the branch bank of Baltimore, and offer to pay mother bank paper, it is optional with the branch whether it will receive it or not. I have no way of compelling them to receive it, because no paper is a tender to it but that of its own branch, except, as I have said, for public dues.

I have been referred by my honorable friend from Georgia (Mr. Crawford) to the late letter of the Secretary of the Treasury. I have been told by my friend from Kentucky, (Mr. Pope) that he is willing to place his faith on the great talents of the head of the treasury. I am not going to contest the talents of the Secretary of the Treasury, nor have I the smallest objection to his letter on this subject, as respects the information it has given. I respect it as that of one of the high officers of our Government, and hope I never shall be found (from any fortuitous circumstances) to doubt its due authority. I shall treat it as I would all the reports from the heads of departments, with respect; but I will not be bound by the report, or pin my faith (as my friend from Kentucky proposes

to do) on the sleeve of any man breathing. I did not object to this letter, but I had an objection to bringing in by committees a support of this kind, which is to have the preponderating force of a report of the head of a department, to the aid of gentlemen on that side of the question.

I did state, and now repeat it, that, in 1793 and 1794, so powerful an instrument did such reports become, in support of improper measures, that the House was offended, and the Secretary of the Treasury (Mr. Hamilton) was compelled to confine himself, ever after, to the handing in reports stating facts, without being allowed to give opinions, and to use arguments in support of them. An intimation was given by a resolution of the House, and we had afterwards no arguments sent to us by the treasury. We received facts, statements, and documents, and were permitted to form our own opinions. A course, however, has been latterly taken in our proceedings, which fully justifies the honorable gentleman from Georgia in the course that he has pursued as chairman, and will also justify the Secretary of the Treasury in the greater part of his letter. I am not to be understood as having (on a former occasion) cast censure on the Secretary of the Treasury for writing the letter; it became his duty to answer the inquiries of the chairman of the committee; he did so. But the letter is now before us, and, having been referred to by the gentleman from Kentucky, I will take it up in parts; and, in doing so, I have no disposition to inflict the least wound on the feelings of the Secretary of the Treasury. He begins with saying, "Having already, in a report to the Senate, of March 20, 1809, expressed my opinion in favor of a renewal of the charter of the Bank of the United States, an opinion which remains unchanged, I can only add a few explanatory remarks in answer to the inquiries of the committee, as stated in your letter of yesterday." Here, then, sir, he bottoms himself and his opinions on the report of 1809, for a national bank ---a bank truly national, not of the limited capital of the United States Bank, which is scarcely enough for the pocket expense of the merchants in a single city; not a ten millions bank, which was adequate to all the purposes for which it was intended twenty years ago; but not now, when we have grown up to a state of

comparative grandeur. The Secretary of the Treasury wants a bank, I presume, something similar to that which was proposed at the last session; to which, if I recollect right, my friend from Kentucky was opposed. If the letter of the Secretary be the authority on which my friend wishes to bottom himself, he ought to take the whole of it. The Secretary does not mean, by that paragraph, to advocate & simple renewal of the charter, but a national bank capable of extending its ramifications into every State, and placing branches in every State and town where large collections of public money are made. That being the view of the Secretary of the Treasury, I wish we had known how, at the last session, to have drawn out his aid in support of his own measure. Again, the Secretary says, "The banking system is now firmly established, and in its ramifications extends to every part of the United States. Under that system the assistance of banks appears to me necessary for the punctual collection of the revenue, and for the safe keeping and transmission of public moneys." Here the Secretary says, the banking system has extended its ramifications in every part of the United States, True, sir, but it is not the banking system of the United States; that system only affects a few cities. What then are the ramifications he alludes to? The State banks, through whose instrumentality collections have been made with as much honor, punctuality, and correctness, as by the Bank of the United States, and with more facility to the Government, because those banks will receive the paper of other banks in payment; whereas the branch banks will not.

"That the punctuality of payment is principally due to banks is a fact generally acknowledged." That is, sir, that the banking system has introduced a punctuality between man and man, which has created a regularity in all pecuniary transactions. The Secretary, however, certainly cannot mean to attribute that punctuality to the Bank of the United States, but to the general system of banking. The sentence is, however, ambiguous.

"Its punctuality is, to a certain degree, enforced by the refusal of credit at the custom house, so long as a former revenue bond, actually due, remains unpaid." Here, sir, I

disagree with the Secretary. Punctuality in payment is not, in a certain degree, enforced by a refusal of credit at the custom house, but by that alone. The refusal of credit at the custom house is alone the real enforcing cause. It was not, therefore, wise, or correct in the Secretary to insinuate that it was only in a certain degree. The loss of credit at the custom house will always compel the merchants to pay their bonds to the United States, however they may deal with individuals.

The Secretary then goes on to state, that "he thinks, nevertheless, that, in order to ensure that precision in the collection, on which depends a corresponding discharge of the public engagements, it would, if no use was made of banks, be found necessary to abolish altogether the credit now given on the payment of duties." If no use was made of banks, credit, he thinks, should be abolished at the custom house; and gentlemen who read this cursorily will be apt to apply the remark to the Bank of the United States. Not so the Secretary of the Treasury; the sentence is ambiguous, but he must mean that, if there were no banks of any kind, punctuality between man and man would not be so assured, and the merchants would not be so competent to meet their engagements, as they would if aided by banks.

"State banks may be used," says this report, "and must, in case of a non-renewal of the charter, be used by the treasury. Preparatory arrangements have already been made to that effect; and it is believed that the ordinary business will be transacted through their medium, with less convenience, and in some respects with perhaps less safety than at present, but without any insuperable difficulty; nor will the United States have any other control over the manner in which the business of the banks may be conducted than what may result from the power of withdrawing the public deposits."

What inconvenience can there be? None that I can imagine, nor will there be any. The safety will be the same: for, let me again repeat, that the treasury has no more control over the Bank of the United States, under the law as it now exists, than it will have over the State banks. What control (it may be asked) will the treasury have over the State banks? A powerful one, in my opinion. If it does not appear that they

are conducting your and their affairs safely, the Secretary will take the public deposited from such, and place them in others; you can thus operate powerfully on the interest of those with whom the public deposits are made. Have you more control now over the Bank of the United States? No, sir, not so much: for the law compels the Secretary to deposite the public bonds with the Bank of the United States and its branches, and he has no power to withhold them.

I am bold to say, sir, that the State banks are conducted with as much prudence and as much security, in the large towns, as that of the United States. In Virginia, as I have already stated, there is a trifling branch of the Bank of the United States, of 300,000 dollars capital. That branch is in a corner of the State with which the people of Virginia have very little intercourse. Their great intercourse is with the banks of Richmond and Fredericksburg. What is the state of the specie of the Bank of Virginia? It is superior to that of the Bank of the United States. I believe the capital of the Bank of Virginia is one and a half millions of dollars; it has near two millions of dollars in its vaults at present; it generally divides eight per cent; the last dividend was ten. Here then is a dividend greater than that of the Bank of the United States; and the Bank of Virginia has none of that check from the United States Bank which is deemed by my friend from Georgia so necessary to the regularity of State banks.

[Mr. Crawford explained "that those who gave testimony against themselves certainly might be believed; and the State banks had themselves stated that they were kept in a salutary check by the Bank of the United States."]

Mr. Smith continued. I am happy to learn, sir, whence the gentleman drew his conclusion that the Bank of the United States was necessary to keep the State banks in check. I do not know what species of directors they can be who tell us that it is absolutely necessary that we should have the United States' Bank to check them, and keep them from injuring themselves. It is the old doctrine of Mr. Morris, revived in a new form, that the People are their own worst enemies. Can it be believed that the directors of any bank would state that the Bank of the United States was necessary to check them? If it

be so in Philadelphia, it is certainly not so in Richmond, where they have not this check. So far from the branch in Virginia keeping the State banks in check, the Bank of Virginia always keeps the branch at Norfolk in check.

The Secretary does not give his positive opinion on the competency of State banks to the transmission of revenue, &c. but says, "it may be added, that, even for ordinary business of receiving and transmitting public moneys, the use of a State bank may be forbidden by the State, and that loans to the United States are by many of the charters forbidden without a special permission from the State." If there be any such charters, the Secretary of the Treasury need not make use of the banks which have them; he may find enough of banks that can give ample security. As for the ordinary and extraordinary business of the treasury with the banks, I have already shewn that, for the ordinary business, the State banks can do it as effectually and with as much security as has heretofore been afforded by the branches. The Secretary then goes on, sir, to give his opinion in direct contradiction to the bill before you, and shows that, whatever reliance gentlemen may have placed on his authority, they have not reported a bill in conformity to it.

"It does not seem necessary to advert to the particular objections made against the present charter, as those may easily be obviated by proper alterations. What has been called a National Bank, or, in other words, a new bank of the United States, instead of the existing one, may be obtained by such alterations. The capital may be extended and more equally distributed; new stockholders may be substituted to the foreigners, as had been suggested in the report of 2d March, 1809; and any other modifications, which may be thought expedient, may be introduced, without interrupting the operations of the institution now in force, and without disturbing all the commercial concerns of the country."

This project, sir, was tried at the last session. We unfortunately did not get the aid of my friend from Kentucky. It was then agreed to merge the whole capital of the Bank of the United States in a national bank, but rejected by the bank agent ---a bank of thirty millions, which would have been

found capable to extend its ramifications wherever banks might be wanted. The secretary's letter speaks of the plan of the national bank, and not of the one contained in the bill presented to us. The Secretary continues, "Without dwelling on the inconvenience of repaying at this time to Europe, a capital of seven millions," &c.

The Secretary, Mr. President, is considered by his friends, a very great man in fiscal operations; in commercial matters, I may be permitted to have opinions of my own, and to differ from him (without offence to my friend from Georgia) on a question simply and exclusively commercial. Now, sir, where is the difficulty of sending these seven millions (owned by foreigners) to Europe? There is no more difficulty, I answer, than for the merchant who owes seven thousand dollars in England to remit it. This seven millions will not be taken out in silver or gold, to send to England, as is feared by gentlemen. No, sir, men do not carry political enmities to the extent to injure their own interests. The foreign stockholders will not remit specie, because, if they do, it will cost them from five to seven per cent. If they do not remit in specie, how will their funds be conveyed to England? By the most plain and simple mode that can be. The agents of the British stockholders will do one of two things: they will vest the funds in the State banks, or funds of the United States; or direct their agents to remit the amount in bills of exchange. And how will that be done? By buying bills of exchange, which, for every ninety pounds paid here, will yield them one hundred pounds in England, because bills of exchange are ten per cent. below par and there is no chance of their rising. As they can make this gain by bills, does any man conceive that they will not thus remit their money, if remitted at all ?

Well, sir, gentlemen will perhaps again ask, can we spare this money from the United States, and will it not injure the young industrious mechanics and ruin the agricultural interest? Those are idle fears; an exchange of property will take place. The American merchants have, at this time, more than double the amount (of the seven millions) now in, or which soon will be in, the hands of the English merchants, which they will be glad to transfer by bills to the British stock-

holder, for his funds in the stock of the Bank of the United States; and thus the English stockholder will receive the amount of his stock without one dollar of specie being sent out of our country, and the funds of our merchants, now in England, will thus replace the funds of the English stockholder.

Here follows an apprehension of the Secretary, founded on false premises. He says, "And, without adverting to other possible dangers of a more general nature, it appears sufficient to state, that the same body of men, who owe fourteen millions of dollars to the bank, owe, also, ten or twelve to the United States, on which the receipts into the treasury for this year altogether depend; and that, exclusively of absolute failures, it is impossible that both debts can be punctually paid at the same time." Permit me here to observe, that I differ with the Secretary on the question of fact. I cannot believe that the ten or twelve millions due by the merchants for duties to the United States, are due by the same individuals who are indebted to the Bank of the United States, the fourteen millions stated by the Secretary; because, I know that the great body of the merchants who owe for duties, do their business with the State banks, and of course cannot be those who are stated as debtors to the Bank of the United States.

Some of my friends, for whose opinions and persons I have an unbounded respect, are still apprehensive that great distress will result for want of the usual discounts to the merchants of the United States, in case of a non-renewal of the bank charter. The fear is an idle one; it will be precisely the old story of the green ass. It will be remembered nine days, and not much longer. The course of proceedings will be this: The Secretary tells you, that arrangements have already been made to transfer the money from the Bank of the United States, to the State banks. I believe they are in full operation. He will take three millions of dollars (the public money now deposited) from out of the Bank of the United States, and put it into the State banks. Add thereto above four millions of deposite, the property of the merchants, which will also be taken out of the Bank of the United States, and put into the State banks. That is, seven millions of dollars will be immediately drawn from the Bank of the United States, and

placed in the State banks. Upon this money the State banks will feel themselves justified in going into larger discounts, and upon such funds, will be able to take up all good paper thrown out by the United States' Bank, in consequence of the non-renewal of its charter. Were I a negotiator in the Bank of the United States, and had I great discounts in that bank, and were the moneys transferred as I have suggested, I should have no apprehension, and should put my paper in the State banks into which the deposits are removed, with a full confidence that it would be discounted.

This, then, is an idle phantom, raised to deceive gentlemen, who are not particularly acquainted with the business. What is the reason, sir, that none of those fears, those horrible terrors, (presented to our imagination) are felt in Baltimore? The merchants there, generally, are of the republican party, and feel none of those fears. And yet, sir, we are told of the great distress, and almost led to believe that universal ruin will ensue. The distress will not be felt sixty days after the 3d of March. If felt by any, it will be by those who can now pay five shillings in the pound, and who, if they go on three months longer, would not pay sixpence.

We are told that this bank has been honorably, correctly, impartially, and fairly conducted. The honorable gentleman who made this declaration, assured us that he was not versed in the subject of banking; and this was at once giving a most convincing reason against his opinion. He receives the opinions of the gentlemen who are most friendly to the institution, probably from gentlemen that never felt a partiality for any other. Let the gentleman apply to merchants on the other side of the question, and he will receive very different information indeed. In Boston, the honorable gentleman from Massachusetts told us, that the bank has for its President, a gentleman of high talents, great integrity and respectability, and he did not depict him too highly. I know him well, and am bound to believe the information the gentleman has given as to the well meaning of the branch bank there. By the well management of a moneyed institution, we understand an attention to the advantage of the stock holders. In that point of view, (no doubt) the bank has been well managed.

I have a letter, which goes to prove, to my satisfaction, that the branch at New York has not been managed with all that impartiality and correctness which has been stated by the deputies from Philadelphia. I will read an extract therefrom; the writer is a gentleman whom I highly respect, of mild manners, good sense, and great respectability. He says:

"I can speak from experience to this fact (impartiality). I have employed a capital of between two and three hundred thousand dollars in trade here, (New York) for several years, and from being considerably engaged in navigation, my bonds for duties to the United States have amounted to many thousands a year; yet I can aver, that the branch bank has never aided me in the payment, by discounts or otherwise, whilst the Manhattan Bank has freely discounted the paper which the branch rejected, merely by reason of the contamination of passing through republican hands."

I know nothing, Mr. President, but from such information, as to the partiality or impartiality of the bank at New York, except from common fame, who is sometimes said to be a common liar; still some confidence is due to general report. In Philadelphia, it is said that the bank has been impartially and honorably conducted; and I will not doubt the gentleman's words. I do not know what it has done lately, but, some years ago, I heard such a detail of its conduct, as was no proof of the allegation. In Norfolk, I will venture to say, that the conduct of the bank never was considered impartial; and I had a letter last year, from a highly respectable merchant in that place, which (if now in my possession) would have proved the contrary. In Baltimore, sir, we have heard it said in another place, that the bank discounted as much for republicans as for federalists. I cannot contradict this; I cannot, because I have not seen their books; but I believe there is not one republican in Baltimore who will give his assent to that information. If it were the case, I could not well have failed to know it. We ought not, sir, to place entire reliance on the information of interested men. We were told, but a few days ago, and the information was derived, I believe, from the same identical letter as the stated information, "that the Union Bank of Maryland was the first bank which refused to receive

foreign gold." I have inquired into that fact, sir, and find that the Union Bank never refused it, except in one instance, until the House of Representatives rejected the bill from the Senate on the subject of foreign coin. I have a letter from the cashier of that bank in my hand. He writes, "that the first information I had respecting foreign gold, was from the cashier of the Bank of Baltimore, (Mr. Cox) who handed me the proceedings of the Banks in Philadelphia on that subject. It is impossible for me to say which was the first bank that refused to take it; and can only state, for ourselves, that we continued to receive and pay it, at its usual value, (with one or two exceptions) the amount not exceeding two or three hundred dollars difference, until the House of Representatives refused to agree to your resolution on that subject in the Senate. On the 30th of October last, we received from the bank of Maryland \$10,000, without deduction, as you will see by the enclosed certificate." I state this fact, sir, at this time, only to show how cautious gentlemen ought to be in placing reliance on information of this kind. It is impossible for me, living as I do, in Baltimore, to believe that the republicans have experienced impartial conduct from that bank.

We have been told, sir, that the high improvement in the agricultural State of Pennsylvania is to be attributed, in a great measure, to banks, particularly to the Bank of the United States.

The gentleman (Mr. Pope) called upon us to remark the difference in the improvement of cultivation between that State and others, and to see what the State owed to the institution of banks. I have no doubt, sir, that the institution of banks has contributed as well to the prosperity of agriculture as of commerce; but this effect has been much more produced by the State banks than by the Bank of the United States. Has Connecticut any branch of the United States? None; and yet the honorable gentleman from Kentucky, when he travelled through that country, could not have failed to see as high a state of cultivation there as in Pennsylvania. Now, sir, on the other hand, the State of Maryland, which has the enviable advantage of a branch Bank of the United States, in addition to her immense capital in State banks, has not as yet

progressed to that high state of cultivation witnessed in Pennsylvania. This more probably proceeds from the temper, habits, and climate, of her population, than from the cause assigned by Mr. Pope.

We are told, Mr. President, there is a prodigious scarcity of money in the great cities. Money, Mr. President, like every other commodity, will go where it finds its best market; and if in the State of Virginia there be a better market than in Philadelphia, there will it go ---and there it has gone. In Virginia, they have what will command money ---wheat and tobacco; and the merchants from the great cities were obliged to go there for those products, where they could buy cheaper than they could at home. What was the consequence? Money went where it found the best market, and that was in Virginia; the fact is proved from the quantity of specie in their bank. There is no scarcity of money in South Carolina, where merchants were obliged to carry their money for the article of cotton. A scarcity of money results from a scarcity of means of acquiring it. From the large cities we have exported all or a great proportion of our means, and we cannot get back the money for want of the usual sale of bills of exchange; and thence results the great scarcity of money in those cities. It is in vain to tell me, as I have heard in the course of the discussion, that United States' paper is the only universal medium. In the interior, we find the paper of the State banks, and of the State banks alone, in circulation.

In the animadversions of the gentleman from Massachusetts, in order to enforce his argument, and show the danger which will result to State banks, he brought forward an example very strong in point, viz: that an agent of one of those banks, sent here for the purpose of obtaining those deposits, had decamped from this city on hearing of the failure of a great broker, which endangered the bank of which he was a director, to such a degree, as to depreciate the value of its stock twenty per cent.

[Mr. Lloyd said he had stated it is a rumor, for the authenticity of which he would not vouch.]

I was going to say (observed Mr. Smith) that, from the high opinion I entertained of the delicacy of that honorable

gentleman on every subject touching the credit of a bank, I was convinced, that, unless he had proofs as strong as those of holy writ, he would not vouch in such a case; that he would be cautious in giving such a thing as truth, unless he knew it of his own knowledge. As to the statement which he made, there must have been some mistake. One week before the gentleman in question left this city, he gave notice that he should go away on Thursday. He did go on that day, and had previously applied to the Secretary of the Treasury for a share of the deposits of the Government, and produced a report from his bank to show the substantial character of the Mechanics' Bank. The account of the failure of the broker, Mr. Judah, did not arrive until two days after the gentleman alluded to had left this city. He could not, therefore, have returned to New York on that account. What is really the fact? The Mechanics' Bank of New York stands on as substantial a foundation as any bank in the United States, and has, in proportion to its stock, more specie in its vaults than any bank I know, except that of Virginia. Mr. Judah did fail; but the stock of the bank did not experience a more unusual fall than that of other banks. The great failures at that time staggered every man for his own safety. The banks looked around with caution. The value of the stock in every bank experienced a depression. At that moment the Mechanics' Bank paid its dividend of $4\frac{1}{2}$ per cent, and the stock, which was worth 20 per cent. above par, did go down to $15\frac{1}{2}$ per cent. What was the loss, at any rate, sustained by this great broker? The Mechanics' Bank, I understand, will not lose 2,000 dollars by all the failures; by Mr. Judah, not a dollar. On the contrary they have money to pay him. I mention this fact to show that we should be extremely cautious, indeed, in placing reliance on facts of this kind, from sources over which we have no control.

We are called upon, sir, to believe, that the borrowers at New Orleans are less safe than elsewhere. I had thought they were more safe, because they have more valuable produce to export; because they have more specie among them than in any other part of the Union; and because the people of the whole western country send their products there for sale, and

do not press the merchants too much in return. One reason has been assigned (by Mr. Lloyd) why we should renew this charter; that, in this city, loans have been made to the amount of 400,000 dollars, which are expended in canals, houses, bridges, and improvements; and we must renew the charter to enable those people to go on. That reasoning, sir, has no influence with me. There has been one prodigious mistake in all this business. It is taken for granted, that the merchants cannot pay their notes at bank, unless they obtain new discounts. This would be to say, that they were carrying on trade without any other than bank capital. The loans in Baltimore, on made paper, are a mere drop in the bucket, compared with the extensive trade of that city. A great proportion of the notes which the bank reports as payable, are on *bona fide* sales. The borrower does not depend on any loans from banks to meet them, but draws on his own means to pay such notes. But there are in all banks what is called negotiable paper. We borrow from the bank a stipulated sum, and understand that, unless the bank is hard pressed, it will continue the renewal of notes, to take up that stipulated sum. A note is signed by A, and endorsed by B, for which no property is paid; it is a mere note of accommodation. That note, when it comes due, is not expected to be paid, unless by a renewal with the same endorser, or, if the endorser becomes bad, a good one. Thus a director of the bank will have discounts to the amount of 27,000 dollars renewable at bank. He cannot get more unless on real paper. Our banks do not dare to discount beyond their means, because they are obliged to pay cash for every legal demand. The gentleman from Kentucky has told us, that two or three importing States may be benefited by the dissolution of the bank. I will not answer the argument; it is such a one as can go only to disunite, to create envy and jealousy. I would not resort to that kind of argument, and I will not permit myself to answer it.

We are called upon, in a manner extremely impressive indeed, by the gentleman from Massachusetts, to hearken to the information received from the committee of mechanics and merchants now here, from Philadelphia. I am well informed, sir, that both those committees were composed of

very respectable men; some of them republicans; and it is said, that they complained of a very great scarcity of money, and that trade was not brisk. I will ask them, sir, if they ever knew trade brisk in January or February? It is precisely the same at Baltimore as at Philadelphia; when the rivers are frozen, we wind up our books and do not expect to do business.

One of those gentlemen stated, that he always found a convenience in having his notes discounted in the Bank of the United States, and if he could not get it there, he applied to a friend, who discounted notes that had a longer time than two months to run. It is a possible case, that these persons may have been very much employed in building houses for one of the directors of that bank. It may have been the case, that that director accommodated him by discounting his paper at a longer time than sixty days. This kind of employment between man and man has a wonderful influence on the mind of man; and he who receives a benefit, is willing to return it in some way or other. Mr. Grice appears to be a very worthy mechanic; but I am sorry that he should be obliged to say, that those who contracted with him were afraid that they could not comply with the contract on account of the difficulty occasioned by the non-renewal of the charter; and yet he told us, that the Bank of the United States still discounted its usual quantity of paper. I am sorry to see that the merchants of Philadelphia, great and respectable merchants as they are, make contracts for ships, and tell the ship builder that they are obliged to depend on discounts for payment for the ships. I did not expect this was the case there; and will venture to say, it is not the case in many other places.

One of those gentlemen tells us he had to pay one and a half per cent. per month for money. Sir, he got the money very cheap. When one gets into the hands of the shavers, or what the gentleman calls only discounters, if he gets out for one and a half per cent. per month, he is not coarsely shaved. It is not an uncommon price. Money is worth what it will sell for; and, in Philadelphia, shaving or discounting is considered as honest and fair as any other commercial transaction; that is, to pay and receive more than legal interest. It is not there

considered as dishonorable or improper, whatever it may be in Baltimore.

It is the belief of this committee of merchants that, in consequence of the non-renewal of the charter, flour fell to \$7³/₄ in Philadelphia. Now, this, sir, is one of those good strokes, those excellent things, that the friends of the bank use to deceive and influence the agricultural interests with. It is, therefore, brought home to the farmers in Congress. I state this to show how cautious gentlemen ought to be in suffering their minds to be impressed with these statements. The fact, in this case, it not as stated. The moment at which flour fell was on the receipt of an account from Liverpool of its having fallen to 56s. per barrel; and that there was no demand for consumption. What was the consequence? Fifty-six shillings a barrel will not allow more than \$7¹/₂ to be given here; so the price of flour fell. These gentlemen also informed our minds further, that a demand from a British house, for Lisbon, was not executed, by a house in Philadelphia, from the want of funds. This may be true; but a great portion of that very order has been actually executed at Baltimore, at ten dollars per barrel, payable in bills of exchange, at a fair discount of ten per cent. The ramifications of commerce are such that no one who is not daily conversant with them can know them. There was no occasion for a fall of flour, because the ports of Cadiz and Lisbon were still open; but there was a momentary apprehension that Massena²¹ had got into Lisbon, and commercial men for a moment afraid to let their property go to that market. This lasted but two or three days; it lasted just as long as the terror of the non-renewal of the charter of the Bank of the United States will last. The gentlemen who were sent on here happened to come at a favorable moment to scare us with the depression of the price of flour. But before the question is taken, we learn its rapid rise again to the former prices.

Our minds have been alarmed by a representation of the immense influence which the Secretary of the Treasury will have over the banks to whom deposits are given. I should have no objections whatever, as to myself, that the collector of

every port should be, *ex officio*, a director of the bank in which deposits are made; and as to the argument that such a power would enable a Secretary of the Treasury, if he were a bad man, to injure individuals, it is not worthy of consideration. No Secretary would dare to take such a course; the thing would be proclaimed here in such a voice as would made the offender decamp with precipitation from his office.

The report of Mr. Orr, one of the mechanics, I had like to have forgotten. He says, all confidence between man and man is destroyed. My letters, sir, say that all confidence is not destroyed, but in those whose rashness has been the cause of their forfeiting all title to it. In order to strengthen Mr Orr's argument, we are told that the price of hemp is fallen. That is true; but what does the fact prove? Not that the approaching dissolution of the Bank of the United States has caused it; the reason is, that the arrivals from Russia are more numerous than ever before recollected ---every vessel that comes from Russia brings hemp. Again, our good friends to the westward and in Virginia, have commenced the culture of hemp, and carried its production to an extent nearly equal to our consumption. Add to that cause that the demand is much lessened by the destruction of our shipping. We build few ships now. We ought not to rely on these facts; they result not from the dissolution of the Bank of the United States, but from the course of trade.

I have before taken occasion to remark that certain mechanics were here, respectable men, who would have come forward if I had wished them; they would have told you that they did not rely on the Bank of the United States at all, but on the State banks, for accommodation. I stated that one of those gentlemen thought the renewal of the charter would have an unfortunate effect on the politics of the State of Maryland. The party to which they be longed had twenty years ago declared the charter of the United States' Bank to be unconstitutional; they were in earnest when they declared so. From these circumstances, a renewal of the charter at this time, would go to convince the People that the struggle of parties was nothing but a business of *ins* and *outs*, and not depending on principle.

For myself, sir, the question never came before me on a constitutional argument before; and I do confess, as my friend from Kentucky says, that I was not very squeamish on the subject. But the able arguments of my friends from Kentucky, Tennessee, and Virginia, have made a very serious impression on me, indeed, and have almost brought me to think, that, if there were no other objections, I should vote against the bill on the constitutional question alone. But my mind has received a wonderful impression indeed from the arguments of the gentleman last up (Mr. Pope). He carried his doctrine of construction so far, that, it appeared to me that he regarded no other part of the constitution as binding but the preamble. In support of his doctrine he brought forward the example of the State of Connecticut, which State has no written constitution. It appeared to me, sir, that the gentleman's arguments, if valid, reduced us precisely to the situation of Great Britain ---to look for our constitution in laws, precedents, and parliamentary construction; to have no written guide. My mind became alarmed; and hereafter I shall be very much afraid, indeed, to give any consent to these kind of constructions, about which I have not heretofore, been very squeamish.

I have taken up the time of the Senate to an extent at least equal to anything I had intended, and beyond that which many gentlemen no doubt think I ought to have occupied. I have not wished to prolong my discourse to an unreasonable length, and shall, therefore, leave untouched some points I had intended to have noticed. I am unwilling to trespass on the patience of the Senate, because I am well aware that, unless this bill passes speedily, it can not pass at all. Aware of that, I was willing, for one, and so were all the gentlemen with whom I act, to take a silent vote on the principle, so as to have given full time to gentlemen who brought forward the bill to have gone through with its provisions. But another course, that of discussion, has been thought proper to be pursued, and I have deemed it proper to express my sentiments.

Mr. Smith, of Maryland, concluded with hoping that he had not said any thing to wound the feelings of gentlemen in

opposition to him, for whom he had great respect. If any thing he had said had hurt the feelings of any one, he hoped to be believed when he assured them that such was not his intention.

MR. POPE.--- Mr. President, instead of interrupting the gentleman from Maryland, I preferred to correct him after he had finished his speech. I have examined the journal, and cannot find that any question about extending a branch to Kentucky was made; but I have a very perfect recollection of my views and impressions in relation to the bill. That bill provided that six millions of the capital should be divided among the States, to be subscribed and paid by the States within a given period. I was aware that the rich moneyed States on the seaboard would subscribe, but did not believe the new States would tax the People to raise the money. In order, therefore, to diffuse the interest and influence concentrated in this moneyed institution, and thereby preserve to each State, if the bill passed, her due weight in the federal Union, I proposed an amendment to this effect: that the capital should be limited to twenty millions; that is, ten millions in addition to the present stock, four of which, as provided in the bill, to be subscribed by the United States, and six millions to be divided among the States, and paid out of the national treasury. If my plan had been adopted, and a branch extended to Kentucky, the dividends made on the capital employed there, would have gone into the treasury of the State. It has been a favorite policy with me to produce a unity or consolidation of interest in this nation. With that view I have advocated the encouragement of manufactures, and the appropriation of a portion of our funds for the improvement of the interior by roads and canals. Upon the same principle, if the bank bill had been permitted to assume the shape I proposed to give it, I should not have been hostile to its passage. A consolidation of interest is necessary, perhaps indispensable, to give strength and permanency to this confederated republic, and free it from the dangers and evils consequent upon a consolidation of power. I have several times expressed my opinion, on this floor, in relation to a

consolidation of power. We ought to guard against it. Under this impression, I have been opposed to extending the coercive agency of this Government upon the People of the interior. Upon the same principle, I have approved the repeal of the internal taxes, not so much on account of the sums demanded from the People, but because I think it difficult, if not impossible, to have such a system, requiring so much federal agency, well managed by one Government, over this immense country.

MR. BRENT said he had not the vanity to believe, after the subject had been so fully discussed, that he should be able to shed any new light on it; but, having been instructed by the Legislature of the State which he had the honor to represent, to vote on constitutional principles against the bill under consideration, and as he was reduced to the painful necessity of going counter to those instructions, it seemed to him to be indispensably necessary that he should submit to the Senate the grounds on which he acted. It is (said he) a most painful situation in which I stand in relation to the Legislature of Virginia, in being compelled to vote in opposition to their will, more especially as it is a prevalent opinion, with many whose opinions are entitled to great respect, that instructions are obligatory on a Senator. This question is one which has never been settled, or even fully deliberated on. Instructions, when heretofore given to Senators, have generally been in accordance with the sentiments of the Senators, and only added the greater weight to their opinions, if called upon definitely to pronounce with regard to instructions on questions of expediency, I might be under some difficulty as to what course to pursue; because, although there is no clause in the constitution to that effect, I am under a strong impression that, according to the principles of our Government, there is much reason to believe, that the respective State Legislatures should have such a right; but, on a constitutional question, (whatever may be the right of the State Legislatures in other instances) the right of instruction may be denied, in my judgment ---that is, so far as to be imperative on the Senator. To give a vote in such a manner as in his estimation to inflict a vital wound on the constitution, is more than the Legislature of Virginia, or any other State Legislature in the Union, can compel me, or any other Senator of the United States to do. The resolution of Virginia is bottomed, not on the ground of inexpediency, but on the principle that the constitution prohibited Congress from granting the bank charter in the first instance; that it now prohibited it; and, therefore, because it was unconstitutional, the Legislature have instructed their Senators in Congress to oppose it. Now, sir, although I

shall not immediately and directly violate the constitution by voting against the bank, yet, if I vote against it when I believe it constitutional and necessary, it must be known that I vote in conformity to the instructions of the Virginia Legislature; and, so far as my vote goes, it will warrant and sanction that interpretation of the constitution which the Legislature of Virginia has given; which interpretation in conscience I believe to be erroneous. Therefore, though in ordinary cases the instructions of a Legislature may be imperative, (I will not determine that question) I conclude that they cannot be so when they require of a Senator to commit either a positive or implied breach of the constitution, or to vote in such a manner as to warrant such interpretation of the constitution as will deprive it of an essential attribute. Virginia has the physical force, but has she a moral right to violate the constitution of the United States? If she has it not, can she give it to her Legislature? If her Legislature possess it not, can they give it to a Senator? Can the Legislature give me a moral right to violate the constitution of the United States, which I have sworn to support? I believe not, sir, and that, in the situation in which I stand, their instructions ought to have no operation on the vote I am to give on the subject under consideration.

To illustrate this question more fully, let me inquire, if a State Legislature should instruct its Senators to vote for a law to take away the trial by jury in a criminal prosecution, would a Senator, thus instructed, who has sworn to support the constitution of the United States, consider himself conscientiously authorized to vote for such an unconstitutional measure? When a Senator is elected, he is entitled to hold his seat for six years. Suppose that, immediately after he is elected, the State from which he is sent, gets into a state of direct opposition to, and insurrection against, the General Government, and should continue so for the whole six years for which the Senator is elected; does this vacate his seat? Will he not still remain in the Senate of the United States, and, if he does his duty, vote for all measures that may be necessary to restrain the unconstitutional acts and insurrection committed by his State? Either instructions on constitutional questions to a Senator are imperative or they are not. We admit that a Senator retains his seat in the Senate even while his State is engaged in actual insurrection and rebellion, and, consequently, in the continued violation of the constitution of the United States. While a Senator engages in the deliberations of this the highest council of the nation, is he to obey the instructions of a State Legislature, who are in the daily violation of the constitution of the United States, and are endeavoring wholly to destroy it by open and declared insurrection, and which Legislature will consequently instruct their Senators to pursue such a course as will best accomplish the object it has in view? In this dilemma, if instructions are imperative, which, if obeyed, violate the constitution, a Senator will

retain his seat in the Senate of the United States for the express purpose of using every means in his power to destroy that constitution which he has sworn to support. Can it be imagined that it was intended, in any state of things, that a Senator should hold his seat in the Senate of the United States, for the sole purpose of doing all he could to overthrow the constitution? Since so absurd, monstrous, and dangerous a principle would result, from admitting the mandatory influence of instructions, when they touch constitutional questions, I deem it my duty not to give my acquiescence to, or, by my example, sanction, a doctrine so hostile to the general spirit, and so unfavorable to the preservation of the constitution of the United States.

Much, therefore, as I respect the sentiments of the Legislature of Virginia, and much as it distresses me to go in opposition to them, I believe I shall do so on the present occasion. With respect to the alarm expressed by some gentlemen, from the large States coming forward and instructing Congress, I am satisfied that no such insidious motives are justly attributable to the Legislature of the State which I have the honor to represent. I am satisfied that its motives were honorable, pure, and patriotic; and this measure is a testimony of the consistency of character of the State. When the charter of the Bank of the United States was first granted, the general sentiment of Virginia was, that this law was contrary to the constitution of the United States. Under a different state of things, and under the domination of a different political party, than at the present time rules the affairs of this country, she preserves a consistency of character. Believing the bank to be unconstitutional then, she now entertains the same sentiment as when in the minority; and, with an honorable consistency of character and anxiety to preserve, the constitution inviolate, she has sent forward instructions to her Senators in Congress. Whilst, therefore, I appreciate the motive which gave existence to these instructions, and highly respect the source whence they come, and the high consideration to which they are entitled generally, I do not, on the present occasion, consider them obligatory as to the vote I am about to give.

In considering this question, I will take it in a three-fold view:

1st. Whether, on the first promulgation of the constitution of the United States, a right did appertain to Congress to establish a bank?

2dly. As respects the constitutional question, whether, on an adjudged case, and one long practised on, it has the same weight as it original?

3d. Whether, admitting that, at first, the bank was improper, because not necessary, it be not now proper, if it can be proved almost indispensably necessary? The first question, whether the General Government, when it first came into operation, did not possess the power of creating a national bank, is the primary object of

investigation. In objection to this, it has been said, that, to carry into effect an enumerated power, is one thing, and the right to incorporate a bank is a distinct power. Those who take this ground say, that the creation of a national bank is an original, independent, and substantive power. It is not sufficient, say they, to show that it is a convenient instrument to carry into effect an enumerated power, because it is an independent authority of itself, and the genius of our Government prohibits the derivation of any powers by implication, with scrupulous limitation. It is true, sir, that our Government, being an emanation from the existing State Governments, the rational construction is, that all power not given away is retained to them or to the People. If that construction does not result, then a positive amendment, which has been made to the constitution, has infused this principle into it. I, therefore, admit, in its fullest latitude, the construction, that all powers, not given away, are still retained; yet, I still contend that, even in a government constituted like ours, there are some resulting powers. Or, by what right do we create a military school? We have a right to raise armies; but we can have an army without a military school. Yet it is constitutional to create such an institution, because every given power implies rights inferior, appertaining to the powers granted.

We lay an embargo ---is there any clause in the constitution authorizing us to lay embargoes? No, sir; we have a right to regulate trade, and we have a right to lay embargoes to protect it. We have a right to provide for arming and disciplining the militia. Under this authority we build armories. Is there any provision in the constitution directing it? We have erected forges, and even purchased ore banks. These are interior powers, necessarily resulting from the greater powers granted. But here gentlemen find the great difficulty. The creation of a corporation, say they, is an act of sovereignty; it cannot be used as a mean, because it is a sovereign act. Why, Mr. President, every law passed is, *quo ad hoc*, a sovereign act. A law incorporating a military school, is as much an act of sovereignty, as to the particular subject to which it relates, as an act incorporating a bank. We create a military school ---for what purpose? Because the sovereign authority has power to establish an army, and the power to create a military school is inseparably connected with, and necessarily appertains to it. We establish a navy ---we also establish a marine corps. There is no clause in the constitution giving that power, but we take it, as inseparable from the power to create a navy; because the exercise of the greatest implies every subordinate power necessarily connected with it. The great stumbling block, however, is, that this is one of those independent, original, and substantive powers, which cannot be given by implication. Blackstone says, "municipal law, thus understood, is properly defined to be a rule of civil conduct prescribed by the supreme power in a State, commanding what is right, and prohibiting what is wrong." Agreeably

to this definition, every law passed by a deliberative body is an act of sovereignty as to the subject to which it relates. The establishment of a marine corps is as much an act of sovereignty as an act incorporating the Bank of the United States. The only question is, whether it be necessarily incident to the enumerated power given to the General Government. Those who criticise most accurately on the constitution, and most unwillingly concede resulting powers, will admit them to a certain extent, even in our Government. The only question is the immediate and necessary connexion of the means used with the object intended to be attained.

In inquiring, then, sir, whether or not, at the first promulgation of the constitution, when it came into existence, it was intended that Congress should possess the power of incorporating the Bank of the United States,[§] let us inquire whether there was any possibility of carrying into effect, with any tolerable convenience and advantage, the several provisions of the constitution, unless this power exists. It is said that you do not possess the power, because it is attempted to be derived, by different gentlemen, from so many different parts of the constitution. Now, Mr. President, I have never before understood that a capacity to derive a title from several different sources, gives you less title than if derived from one source alone. I derive the power from the whole context of the constitution, although gentlemen seem to think that the title is invalidated in proportion to the number of sections in the constitution from whence we derive it. In order to avoid confusion of argument in examining this question, I will derive it from only one source, at present, though I believe others equally give it, by a necessary construction. At the time the constitution came into existence, I believe there were but three banks in the United States; none south of Philadelphia, and all of very limited capital. The constitution of the United States gives the power to levy and collect taxes. Is it possible to imagine any system so convenient for the collection of this revenue, and sending it to the seat of Government, as that of the agency of banks? I am not inquiring whether the State banks can do it; but I say that the framers[§] of the constitution must have had under consideration, the state of things at the time when the constitution came into existence. At that time there was not one bank south of Philadelphia; and the banks which existed were very limited in their capital, and their paper of limited circulation. Congress, in such a state of things, then, has the power of levying and collecting taxes conferred on it, and yet Congress has not the power to create banks to

§ If the intention of chartering a Bank had been stated, no member State would have ratified the constitution ---and you know it. So, they kept quiet until the constitution was ratified, then used "lawyerly vindication" to support their own course of nefarious policy.

§ Not one of the Framers (15 of them bankers) framed a bank into the constitution !!

aid in the collection of its taxes, notwithstanding a clause, to make all laws necessary and proper for that purpose, is contained in the constitution. No gentleman will say that the agency of banks is not necessary, in some way or other, in collecting the revenue. I admit, without them you could have carried on our fiscal arrangements in an awkward and cumbrous form; but was that the intention of the constitution? When the power to collect taxes was given, it was intended to give all the means necessary to carry this power into execution. It was not to execute this power in a cumbrous form, but with the greatest facility with which the power is susceptible of being wielded. Now, is it possible that the constitution contemplated that the revenue should be collected and transmitted here, subject to all the risks, and accidents, and inconveniences, that attend the transportation of specie? It is impossible. But all this doubt has arisen from its being a separate and independent power, although it is no more of that character than any other law passed to execute the enumerated powers of Congress.

In a word. Mr. President, it is admitted by all who have spoken on this question, whether for or against the bill under consideration, that the agency of a bank or banks affords the greatest facility and security of any mean that can be devised for the collection of a revenue and for its transmission to your Treasury.

It is admitted that no bank or banks, of a capital, or of sufficient circulating paper, throughout the United States, adequate to this object, did exist, when the constitution was first formed, promulgated, or adopted. It is admitted that, to levy and collect taxes, is one of the enumerated powers of Congress. It is admitted that Congress has all power necessary and convenient to carry its enumerated powers into execution. It is admitted there is no express clause in the constitution prohibiting the establishment of a national bank.

If these principles and facts are admitted, does it not demonstrate, beyond the possibility of doubt, this unquestionable result, to wit: That, as Congress is to levy and collect revenue; that, as the agency of banks affords the most certain, speedy, and convenient means by which a revenue can be collected; that, as neither at the period when the constitution was made, promulgated, or adopted, banks of sufficient capital or with paper of sufficient circulation existed for the collection of the revenue and its transmission to your treasury; that, as there was no positive clause prohibiting a National Bank in the constitution; that, as Congress was to have all power necessary to carry its enumerated powers into execution; that, as the convention who framed and the People who adopted the constitution, must have had in view our the existing institutions and the then general state of society; it was the

intention of the convention^{\$} who formed the constitution, and the People who adopted it, to give to Congress the power of establishing a national bank.

If, at the time of adopting the constitution, it was necessary and proper that Congress should possess it for the exercise of any of its enumerated powers; if the foregoing result is undeniable, and I think it is; I would interrogate, if Congress, on the adoption of the constitution, possessed a power to establish a national bank, what has since deprived that body of the power? I, Mr. President, can discover nothing which has.

One argument, much confided in by gentlemen who have opposed the present bill, is not that banks are not necessary to the collection of the revenue, but, that State banks will answer. In return, I insist that no State banks did exist when the constitution was first formed, therefore, the power to create a national bank, is necessarily given in the power to levy and collect taxes. To this it is replied, that, to create a national bank, is to legislate by implication; it is a separate, substantive, and independent power; to levy a tax is one thing, to make a bank, another. I answer, to levy a tax is one thing, to create an officer for its collection, another. By this kind of chop-logic, we may prove any thing unconstitutional. I ask, when you levy a tax, if you do not provide officers for collecting it? I levy a tax, and create a bank, through whose instrumentality I mean to collect it; from the same authority by which I appoint a collector, I have a right to create a bank, through whose instrumentality I mean to receive and transmit it.^{\$} There is no clause in the constitution, saying you may appoint officers for the collection of the revenue, specifically; but the right to appoint officers to collect revenue is derived from the power of levying a tax, from which, also, may be derived the power of establishing a bank, if it be the best mode of collecting the revenue. It is said, you may collect this tax by means of the State banks. Very well, sir; I say you may collect the revenue by means of State officers; and, upon the principle that you cannot establish a bank to collect the revenue, because the State banks can collect it, I say that the State officers can collect our taxes; and if your argument is just, you cannot appoint any other officers. The constitution authorizes the President to appoint persons to fill all offices established by law, but says not a word about appointing officers to collect the tax you levy, specifically. Upon the construction gentlemen contend for, they might say, because no power is expressly given to

^{\$} No; the intention of the bankers at Constitutional Convention was, to keep quiet about an independent central bank until after the constitution was ratified and the General Government formed. Then they used lawyerly vindication, interpretation, construction, implied power, necessary & proper, to charter their bank.

^{\$} The Bank of U.S. does NOT collect taxes ---the collectors do. These collectors, sometimes, store the monies in banks.

appoint officers of the customs or for your taxes, and it is possible to collect the revenue by the agency of the State Governments, and nothing should be done by the United States' authorities which can be done by the States, therefore, these collectors of the customs or revenue, should be such as are appointed by the States, for State purposes. This kind of reasoning, sir, cannot be admissible, and is in hostility with a most manifest principle of the constitution; as it is evidently a prominent feature of that instrument that the General Government should have within itself, all those powers necessary and convenient for the execution of its enumerated trusts, entirely free and independent of the interference and agency of the States, their officers, or ministers.[§]

It has been triumphantly demanded by some, whether we could create a trading company. I have not a doubt on the subject. If it can be demonstrated to me, that commerce would be benefitted by the incorporation of a mercantile company; that it is indispensably necessary to do it, to regulate trade to advantage; under such circumstances, I have no doubt, we can create a company: for the creation of a company is no more the exercise of a separate independent authority, than any law which we make when legislating under our enumerated powers. If it be inquired, whether or not we could incorporate a company to cut canals through the States, I answer, that there is, in the constitution, a clause authorizing Congress to regulate trade between the States, and, under this clause, we could do it with the consent of the States. We could not do it without. And I derive this construction from the constitution itself. It is a fair mode of construction, laid down by professional men, that, where there is intricacy or difficulty in the construction of any legal instrument, you must take the context together; one part of the instrument must be used to elucidate another; the different parts must be compared, and the true construction thereby obtained.

In the 8th section of the first article, a power is given to Congress "to exercise exclusive legislation, &c. over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." I discover here, that the constitution, in order to preserve the sovereignty of the State Governments, has been exceedingly vigilant in guarding their territorial rights. Therefore, where a power is given to the General Government, interfering with the territorial rights of the States, there is a clause in the constitution saving territorial rights, and requiring the consent of the States to its exercise. If, therefore, Government, in the exercise of its enumerated powers, is restrained from acting, where their acts affect State territory, unless with the

§ Your kind of reasoning indicates that you are pretending to be stupid while talking much as a paid mouth-piece.

consent of the States, I infer that we have not a right to incorporate canal companies without the consent of the States through which the canal is to go. With this limitation, I have little hesitation in saying that we have a right to incorporate canal companies.

It is said, that the corporation which it is proposed to re-charter, independent of the facility it affords to Government in the collection of the revenue, has, also, particular advantages given to it; that it is a monopoly. And what right, it is asked, has Congress to grant a monopoly? I will ask, in return, when an officer is appointed to collect the customs, has he not a salary and emoluments? Is not every office in law called a franchise or a particular privilege? If the officer, who has these emoluments, privileges, or franchises, (call them what you will) receives these in consideration for his services, have you not the power to hold out inducements to associated bodies of men to form an institution from which the public may derive benefit, not with a view exclusively to their monopoly and benefit, but on account of the advantages to be derived from it by the public ?

If it is urged that, instead of this incorporated company, you might appoint officers in the different ports of the States in which the greatest duties are collected, and issue notes, or bills of credit, which are made current, without creating a bank authorized to make discounts, I admit we might; but, if we believe it not so convenient and safe a way of collecting our revenue, as through the agency of a bank, we have the right to associate men in a banking company for this purpose, and give them particular privileges, upon the same principles that we give privileges or franchises to every officer we appoint; and, although we thus confer, in both instances, privileges, it is done for the public good, because the object to be effected can be accomplished by no other means so effectually. If you want an association of men in a particular manner, to make them subservient to some political use, you have authority to give to those associating men whatever privilege may be sufficient to induce them to associate for this purpose. You do not give them this privilege for their own individual advantage, but as the lure, the bonus for association, by which association the public object is effected. I would ask, whether Congress could not, to-morrow, pass a law authorizing the President to open a negotiation with Hope & Co., saying, we have full confidence in you, and you shall be the United States' bankers? This may be said to be a monopoly; but, if Congress were convinced that this was the safest means of collecting the revenue, I ask, where is the clause of the constitution which, in substance, or words, prohibits Congress from adopting such a measure? If there be no clause to prohibit this, there is no prohibition to the passage of a law for incorporating individuals in an association from which the greatest possible facility in the collection of the revenue is expected. In a word, sir, it appears to me that the only rule, in an instance of this kind, is, to

take care that the means used have a necessary reference to the object of the power.

When legislating on the enumerated powers of Congress, the only limitation is, an inquiry whether the means we are about to use, necessarily relate to the effectuation of the object in view. For instance, I should consider it a violation of the constitution, if Congress, under the power "to make rules for the government of the land and naval forces," should pass a law regulating military testamentary devises; because the incident is too remote, it is too great a stretch of power, the constitutionality or unconstitutionality being regulated by the relation of the means to the object to be effected. If this reasoning be just, then this question is not soluble by the mere determination of the question, whether or not this is the best system by which our revenue can be collected; we must, to ensure its rejection on constitutional grounds, prove that the power of establishing a bank is so remote from the object of collecting the revenue, as to have no connexion with it. Admit that a better system of collecting the revenue can be devised, than by the establishment of a bank; it does not follow that the bank is unconstitutional.[§] The only question is, whether it is so remote as that, by no satisfactory process of reasoning, you can prove its analogy to the collection of the revenue. If it be shown that a better system could be adopted, it only proves that this is inexpedient, not that it is unconstitutional; and, sir, it has been a matter of astonishment to me, that, notwithstanding it was so universally believed, some time since, that the agency of the bank was excessively conducive to the prompt and regular collection of the revenue, it is now discovered that its agency is unnecessary. The gentlemen who are now of this opinion, thought otherwise formerly, and the Secretary of the Treasury, who is best enabled to decide the question, is of a different opinion from them.

In answer to those, sir, who say that State banks afford the facility necessary to the collection of the revenue, I would ask, is the General Government to be dependent on the State banks for the collection of the revenue ? Or, do gentlemen believe they would be as secure and responsible as the Bank of the United States ? As to the remark, that, in those States where there are no banks, the revenue is collected with as much facility as where there are banks, I would reply, that, where there are no banks, there is, nevertheless, bank currency in circulation. Where the States have no banks of their own, the notes of the Bank of the United States are in circulation, and the customs paid in those notes.

A national bank, I am under a strong conviction, is, if not indispensable, highly conducive to a convenient collection of the revenue; and if this bank be put down to-day, before a long interval of

§ But you're not running your mouth for an hour on behalf of an independent Treasury system, and a Postal Savings Bank system ---you're taking up time and space on behalf of bankers who are no different from Hope & company.

time we shall have another bank. In my estimation, there ought to be a bank, whose paper circulates freely throughout the States; other paper will not answer the same purpose. I recollect to have been travelling where I had in my pocket-book, five hundred dollars in good bank-notes; and yet I was compelled to trespass on another gentleman, in company with me, to bear my expenses. If the notes I had with me had been notes of the Bank of the United States, they would have circulated freely, because the merchants gladly receive them from the planters, for the purpose of remittance, &c. But it always will be otherwise with State banks; from their nature they cannot give that general circulation which is derived from a general bank.

The honorable gentleman from Kentucky, (Mr. Clay) with his usual ingenuity, spoke of the enormous evil, and the danger to our liberties, that is to be anticipated from giving the power to erect corporations, which, he says, is an original power, and has given being to institutions which have swelled to an enormous magnitude.

The example of the East India Company and the South Sea Company were spoken of in an alarming, impressive, and ingenious manner. But, I ask, sir, if the State Governments do not possess this gigantic power? I see nothing to restrain them, more than the General Government. I see that the only supervisors, as to the State Governments, are the People themselves, who are, also, the supervisors of Congress, who have, also, the invidious, jealous eyes of the State Governments constantly upon them, as is illustrated in the conduct of some of the States on this very question, and who, combined, would guard this power from abuse by the General Government, much more than the People alone will guard against abuses by the States. It is a visionary mode of reasoning, to argue against the possession of power from the abuse of it. The gentleman may as well tell us that we may raise armies to so monstrous an extent as to crush our liberties, and therefore, we ought not, in any emergency, to raise an army. He may as well say, the creation of a military school, which is as much, and no more, a resulting power than the one in question, is giving to Congress a great substantive independent power to create a vast engine, under the name of a military school, which may swell to such immense importance as to make it an instrument to swallow all the liberties of the country. So, as respects sites for forts and armories, and ore banks, powers exercised by implication. The gentleman, from the unlimited indulgence he gives to a gloomy and foreboding imagination, may say, you may purchase the territorial rights of the States, until you destroy their sovereignty. There is no end to the extent of such reasoning. We must rely, in some degree, on ourselves, on the vigilance of the State Governments, and on the discretion of the People. When the whole body politic is so corrupt that there are no eyes on our rulers, to see

when they transcend the powers of the constitution, all is lost, and no paper reservations can save us.^{\$}

From this reasoning, sir, I again reiterate, that I conclude that, when the constitution was formed and promulgated, it was the intention of the framers of the constitution, and of those who adopted it, in the powers they gave to the Congress of the United States, to include that power, and establish a bank, if such an institution was considered convenient, necessary, and proper, to carry into execution any one of the enumerated powers conceded to the General Government; and, if it was constitutional then, it was equally so now.

In the course of the very elaborate and able speech delivered by my colleague a few days past, on this subject, he stated these two positions: that a right to grant charters of incorporation is not of a description of character similar to, and has no analogy with, any of the enumerated powers of Congress.

2d. That the right to grant charters of incorporation was a distinct and sovereign power, equal in itself to any of the enumerated powers granted to Congress. As to the first position, that the right of creating corporations, or banks, has no analogy to the enumerated powers of Congress, permit me to observe, this is begging the question, or, rather, entirely evading it. If it is admitted by every one (and this has been admitted) that banks afford the greatest facility of collecting your revenue, and you have a right to avail yourself of the best means to carry into execution your enumerated powers, the right to create banks has an immediate connexion with, and grows out of, the power to levy and collect taxes, which brings this merely to a question of expediency.

His second position was, that the right to create corporations, or banks, was a distinct and sovereign power, equal, in itself, to any other of the enumerated powers of Congress; that it wants that connexion, affiliation, and subserviency, to some enumerated power, which is necessary to give a power by implication. I know not that a law, granting a charter of incorporation, is more an act of sovereignty, than a law passed on any other subject. That it is a power original, independent, and of itself equal to any one of the enumerated powers, cannot be admitted, because it has not been contended by any that Congress possess the power of creating corporations at all times, and in all instances. It is only contended to be proper, and constitutional, when it is used in subserviency to the enumerated powers of Congress, as the means best calculated to carry any enumerated power into execution. The right of creating incorporations for this purpose only, and under this limitation, can never make it a power equal, in character and magnitude, to any one of our enumerated powers, because, if it is used as a mere subservient instrument to them, in that point of view ---if it

^{\$} Rest assured, the day will come; and bankers played a large part in it.

can be demonstrated that they are a convenient means to effect a legitimate object my colleague must admit their constitutionality, because he has emphatically dwelt on that clause of the constitution which gives to Congress the power to make all laws necessary and proper; and to those who apprehend that this power may be abused, and Congress may attempt to exercise it in instances not within the pale of their legitimate authority, I answer, they may also abuse any other power they possess. The only preservation is the virtue of our Legislature, and the vigilance of our People.

The next point which remains to be investigated is, whether the constitutionality of the bill under consideration receives any support from its principles having been sanctioned by any former laws and measures of the Government.

Mr. President, I am ready to admit that, where a measure obtains, that inflicts a violation on our constitution, that is unquestionable, palpable, and notorious, however frequently and however solemnly this measure had been sanctioned, however long it had been submitted to and endured, would not be considerations with me of any importance, or create one moment of doubt. Error, however repeated and submitted to, is error still, and every occasion should be sought to get rid of it; but, on an occasion, in the origin of which the constitutional question was doubtful, when men of the purest integrity and most illumined intelligence might pause, and differ, and doubt, I should imagine that such case, once acted on, should never again be touched, unless considerations of irresistible importance lead to such a measure; and I imagine that every man of candor and intelligence, who weighs with due deliberation the question under consideration, will at least admit, if the measure is not certainly constitutional, it is at least of that description of character I have last mentioned. In such an instance as this, will it be said that, after this measure has been sanctioned by Congress, on full deliberation and debate; after the bill establishing this bank had received the approbation of the President, who reserved his signature to it till the last moment permitted by the constitution; and after he had viewed the question with all its bearings in every attitude it could be presented; after full consultation with his cabinet ministers, and others of high intellectual character; after the law, thus sanctioned by the Legislature and the President, has been acquiesced in and practised on for the space of twenty years; when it has been considered inviolable, and corroborating laws passed during the administration and legislation of different dominant political parties; when those laws have been sanctioned by the solemn adjudication of all our judges, both of the General and State Governments; to suppose that all these considerations are to have no influence as to putting to rest a constitutional question, which was doubtful in its origin, is to be sceptical and scrupulous beyond all reasonable bounds.

If Congress have no right to incorporate a bank, was it not an act of usurpation in the President and Congress to pass laws punishing individuals for the forgery of its paper? Nay, more, Mr. President, when we inflict death for the support of institutions Congress had no right to create, and for the violation of laws the constitution prohibits that body from enacting, (and under the denomination of each of the political sects into which this country is divided, agreeable to the principles now contended for by gentlemen, such laws have been passed) are not the Executive which sanctions, the Congress which passed, and the whole body of our judiciary, both of the General and State Governments, which enforce such unconstitutional measures, and under their surreptitious authority inflict death upon our citizens, worse than usurpers? Are they not murderers?

Yes, Mr. President, I reiterate, are they not murderers? And are we prepared to pronounce so heavy a denunciation on our predecessors, on ourselves, and the great departments of our Government? Are we ready to inform the American People that this body, and all their constituted authorities, have sported with the lives and illegally shed the blood of our citizens? My colleague was foreman of the jury that pronounced sentence or that found a verdict on the famous or rather infamous Logwood, for forgery of the paper of the Bank of the United States. This verdict was confirmed by the judge of the court, and the criminal punished agreeably to the judgment. Is a measure of such weighty and awful import, so solemnly and deliberately acted on and decided, and multifarious other decisions of the same description, to have no influence on the decision we are about to give respecting the constitutionality of establishing a national bank? If they are not, then gentlemen view the subject through a very different medium than that through which it is presented to my vision. Then, in my judgment, Mr. President, our situation is alarming indeed.

This vibrating constitutional doctrine, to-day one thing, to-morrow another, as the domination of one party or the other or the passions of the moment shall prevail, will reduce our constitution to nothing, or render it a [mere instrument of depraved men](#), if such should get into power, to accomplish their wicked purposes, and to destroy the liberties, and oppress the virtuous People of this country. It is a wise maxim of our municipal law, that, in novelty, there is danger, but antiquity of law sanctifies error. If this principle is just, as it respects municipal law, (and of this, in my judgment, there can be no doubt) it is infinitely more so when applied to fundamental and constitutional principles, which, when once fixed, on all questions of a doubtful nature, should never again be agitated. The influence which the decision of the judiciary may have on settling the constitutionality of the law incorporating the Bank of the United States is not intended to be urged by me as an argument, which, in my judgment, ought to be

relied on, because I conceive it the duty of the judiciary merely to expound what is the law of Congress; and to determine between a law and the constitution is assuming to the judiciary ---a power not appertaining to it a power inconsistent with the genius of our constitution, and such a one as, if exercised by any judiciary, under a popular Government, will ultimately destroy the Government itself.

The inference, therefore, which is derived from the reasoning above insisted on, from the decisions of the judiciary, is intended for those who insist that your federal judiciary have a right to decide on the constitutionality of any law passed by Congress which comes under its cognizance. The aid I myself derive from the source of precedent, to support the constitutionality of this measure, is solely from the reiterated acts of different Congresses, and the approbation of different Presidents, and the concurrence, under them, for the space of more than twenty years, during the prevalence of different political parties.

An attempt has been made, by the honorable member from Tennessee, and others, to invalidate the accuracy of the inference drawn from this principle of precedency, by insisting that the bank law was in the nature of a contract with individuals, by which private rights became vested, and therefore the Government was bound to carry it into effect. The gentleman from Tennessee imagines that, during the period of the republican administration and majority in Congress, which acted upon this bank law, it was considered in the nature of a contract, and as such, Government determined to carry it into effect with good faith, and with that view passed the several corroborating laws which have been from time to time enacted. But this reasoning, sir, of the gentleman from Tennessee, has been so fully refuted by my honorable colleague, in the very able speech he delivered on this question, some days past, as to obviate the necessity of further commenting on it. I will only repeat one remark that was made by my colleague. If the bank law was unconstitutional at first, it could not give any legal corporate existence to any body of men to form a legal contract in a corporate character which had no such existence. Therefore there existed no legal contract; the faith of Government was not pledged; it was like a contract with a married woman or an idiot; it was, *ipso facto*, void.

To recapitulate, I derive the power to create a national bank, when this constitution came into existence, from the situation of society, and our legal institutions at that time, and the difficulty, as things existed, that the revenue could be collected with advantage, in any other way than by the agency of a bank. If this reasoning be deemed erroneous, I insist that the constitutional power of Congress to create a bank was, in the first instance, doubtful, and the principle having been recognised, and having received every sanction the Government could give, and

practised on for more than twenty years, is not now to be called in question.

Admitting that, on both these points, my views are erroneous; say that the establishment of the bank at its commencement was improper; still, if it be demonstrated that the existence or re-chartering of the bank is indispensable, or highly expedient, at present, to the due exercise of enumerated rights of Congress, that which was improper, or, even, perhaps, unconstitutional, at first, because it was not necessary, becomes constitutional and proper, because now expedient or essential. Congress are clothed by the constitution with a variety of delegated rights. Now, admitting that the establishment of a bank, in the first instance, was not necessary for the due exercise of the legislative rights bestowed in any one of these enumerated powers, if our predecessors in office, by the creation of a bank, which, at best, was an improper institution, because not necessary, have placed our fiscal concerns in such a situation that it cannot be put down without great injury to the revenue, which Congress is bound to levy and collect ---without injuring our commerce, with out impairing our public credit, without lessening the public welfare, all of which Congress is bound to provide for and protect--- if this can be demonstrated to be the probable result of pulling down the bank at this period, I would ask, whether that institution which was improper at first, because not necessary, does not become proper, because almost indispensable at present ?

In construing the constitution of the United States, when legislating on the enumerated powers of Congress, I lay down this rule of construction: that the only limitation to the power of Congress is, either some positive or implied prohibition in the constitution itself, or the exercise of an honest and sober discretion. If, therefore, there is any reason to believe, at the present period, and existing state of things, that, by putting down the bank, your revenue will be greatly impaired, your commerce will be injured, the public credit lessened all of which Congress is to protect does not such a state of things make it proper that that bank, which ought not to have been created, because not necessary, now ought to be continued, because indispensable ? It may here be said that I am varying the constitution, if I say that a thing is proper to day, which was not proper five and twenty years ago; that this vibration will always keep the constitution in an uncertain state. I say no. My doctrine is subject to no such accusation; the principles of the constitution are uniform and unalterable. It is an uniform and unalterable principle, that Congress have the power to lay and collect taxes; they have the same positive unchangeable right to exercise all the enumerated powers, the only rule of construction relating to them being, that the means you use have a necessary relation to the power on which you legislate. If the means be not enumerated, you exercise discretion as to the means, having a regard to the existing state of

things when you legislate concerning them. The same means may be necessary and proper now which would not have been twenty years ago; you change the means to attain the end, but the end itself, the enumerated power in the constitution, remains unchanged. As long as the constitution exists, you must select the means most proper for executing the enumerated rights, at the precise moment at which you legislate respecting them. If this be the true construction of the constitution respecting the re-chartering of the bank, the question merely resolves itself into an inquiry how far such a measure is, at present, expedient. To determine, at this moment, whether or not it be constitutional, or, in other words, expedient, to incorporate the Bank of the United States, I am to say whether, under existing circumstances, in the present state of society, situation of trade and revenue, the preservation and continuance of this institution is essentially necessary. If it be essentially necessary, we have a right to re-charter the bank. I have been precise in stating this view of the subject, because it has not before been taken by any other gentleman.

With respect to the expediency of re-chartering this institution, I am somewhat surprised that any doubt should be entertained. It appears to me that gentlemen have become incredulous, beyond all possible bounds. I believe, sir, it was a wise saying of the sage Plato, that incredulity is the fountain of knowledge. But, even to this maxim, there must be some limit, as seems to be illustrated on the present occasion, when incredulity has been carried beyond all reasonable bounds. When general distress is in view; when all around us is proof of the fact; when men in the best credit, men who have heretofore had the greatest command of money, now feel the want of it; when there is a general cry of distress from your large towns; when our table is loaded with petitions from all orders of people in our country, depicting, in the most vivid colors, their present sufferings and gloomy anticipations; when the surrounding banks are curtailing one-half of their accommodations; when our whole commerce is paralyzed by the various aggressions it has experienced, and by the shock which the agitation of this question has already given it ---for gentlemen to shut their eyes to the effects of the dissolution of this institution, is, to me, astonishing.

In another point of view, how can it be questioned? The honorable gentleman from Maryland, whose knowledge we have all benefitted by, and acknowledged on various occasions, has said, what is most unquestionably true, that money is like any other article of trade, valuable in proportion to its abundance or rarity. Then, if you strike out of circulation the increased capital circulated by the Bank of the United States, is not a relative scarcity to be expected? But, it is not merely to the extent of the increased capital circulated by the Bank of the United States, that money will be driven out of circulation. Those gentlemen who tell you that the State banks, in this period of calamity and

distress, can afford sufficient accommodation, are, in my estimation, infinitely mistaken. The State banks will, in the first instance, frequently tend to increase the evil. The same men who have accommodation in the Bank of the United States, very frequently have it, also, in the State banks. The Bank of the United States, finding it necessary to settle its accounts, is anxiously employed in drawing into its vaults all the money it can, to settle its affairs. The State banks, knowing there will be a run upon them, are also drawing in the money due them by the very individuals whom it is imagined they can accommodate by extended loans. Those State banks, which were to relieve the merchants, &c. will join in the pressure; in order to secure themselves, they must produce the same curtailment to their customers which is used by the Bank of the United States. So, that, not only will the amount of the capital circulated by the Bank of the United States be driven out of circulation, but much, also, for a time, of that paper which the State banks were in the habit of issuing to individuals. It is impossible to say to what extent the circulating medium will be diminished; that it will be to a great extent, for a short time, there can be no sort of doubt. And the depression of the price of flour, at this period, is proof that the present apprehensions have already produced this effect: for, although I would yield much to the superiority of information of the gentleman from Maryland on mercantile affairs, as on most others, yet, in this instance, his information is not, in my estimation, correct. It is a notorious fact, that flour is now in as great demand as ever it has been, in Cadiz, Lisbon, and Gibraltar. It is not long since I saw an account of flour having sold at twenty dollars, at Gibraltar. Now, sir, if a merchant here knew he could get this price there, of from eighteen to twenty dollars, as is unquestionably the fact, would a temporary depression of the prices at Liverpool, as has been imagined by the gentleman from Maryland, have any effect here? None at all. If our merchants could get eighteen or twenty dollars at Lisbon, the depression of price at Liverpool would not have the least operation here; it is an unquestioned fact, that the price in the ports I have mentioned is constantly kept up; and yet the price did fall, at the moment the bank question was thought to be decided. I think it fell two dollars immediately; and it was, no doubt, from the difficulty of obtaining money, which, it was supposed, would result from the dissolution of the Bank of the United States, that this article fell. When you diminish the quantity of money which is to represent the articles of trade brought to market, I do not want the gentleman's mercantile knowledge to inform me. It is a plain proposition, that such a measure goes to depress the price of the article brought to sale. That the destruction of the Bank of the United States, as it will lessen the circulating currency, for a time, must go to depress the price of produce, is unquestionable, and will also diminish, for a time, the

circulation of the notes of other banks, because they must reduce their discounts. This effect may be but temporary, but will exist to a certain extent.

The gentleman from Maryland has observed, that no apprehensions are entertained by the people of Baltimore, on account of the dissolution of the United States' Bank. I think I have been informed that one of the most wealthy men in that town has said he had a vessel to load, and knew where he could send her, so as to clear six dollars per barrel on flour; for that flour, at this period, could be purchased here, at eight dollars, and might be sold abroad for eighteen; but, in consequence of the entire impossibility of obtaining money from the banks at present, from the fear entertained respecting the dissolution of the Bank of the United States, it was not in his power to load his vessel. Such, sir, I have been advised, is the situation of one of the wealthiest men of that town. The Bank of Columbia has, at one stroke, lessened its discounts fifty per cent. in consequence of the apprehension entertained respecting the dissolution of the Bank of the United States. What has the gentleman from Massachusetts told you? That \$400,000 dollars are loaned to the people of this District, by the Bank of the United States. What will be the effect, in this little District, of drawing three or four hundred thousand dollars out of circulation? Sir, to tell me that the reduction of circulating medium will not produce (it may be but for a short time) a correspondent reduction of the prices of produce, is to tell me that I cannot see the noonday sun. How long this reduction of the circulating medium, and the consequent depression of prices, may last, it is difficult to say.

When the numerous late failures and bankruptcies are spoken of, what is the reply? That they do not proceed from a want of bank accommodation, but from the protesting of bills abroad; that our merchants have much property abroad, but the difficulty of obtaining returns for it, has been such as to embarrass our strongest houses. Is this a reason why we should accumulate difficulties on our merchants? Fifteen or twenty millions are said to be tied up in foreign countries, more especially in England, and such is the situation of England, that we cannot get remittances from there. This is an admirable reason, sir, indeed, for selecting this particular moment for calling on the merchants to make an immediate payment, to the amount of fourteen millions, which they owe this institution, and which, if put down, it is reasonable to believe, will require immediate payment.

This is regulating trade with a witness. By the annihilation of the Bank of the United States, a considerable portion of our circulating medium is destroyed. At the same period, our merchants are called on to pay their debt to the United States' Bank, to the amount of fourteen millions, and their revenue bonds amount to about twelve millions.

This, too, at a period when the funds of our merchants, to a great extent, are in England, and cannot be withdrawn.

To me it appears that the situation of the country, as respects commerce, and every thing else, makes it important, at this crisis, above all others, that this institution should be preserved.[§]

But gentlemen, and very intelligent gentlemen, tell us, this is a mere momentary pressure; that the money in the Bank of the United States, and the revenue, as collected, will be deposited in other banks, who will issue paper or specie, in proportion to the additional capital in their banks; that there will be a mere temporary vacuum, which will soon be filled. If I am to be placed in an apartment, from which all respirable air is exhausted, and for a very short time to remain there, but till all vitality is extinguished, it will truly be a delightful consolation, previously, to advise me that this vacuum is temporary, and, after I am destroyed, the equilibrium will be restored, and fresh air admitted. Precisely of this nature is the consolation afforded to your ruined merchants and others. What avails it, if the cause be momentary, but the effect, as to them, be permanent? This awful moment will bring permanent destruction to thousands. And, for what purpose do we produce this destruction? To get rid of the foreign influence produced by the stock held by foreigners. Yet, sir, this foreign capital is one of the most beneficial consequences attending the bank institution.

In a new country, constantly developing new resources of every description, an increasing population, increasing commerce, agriculture, manufactures, and multiplied objects on which capital can be employed to great advantage, to develop the wonderfully increasing energies and resources of our young country, we can afford to pay foreigners good interest for the use of their capital. This is one of the great reasons, with me, in favor of the bank. We are admonished, that this foreign capital gives to foreigners a dreadful political influence. Admit the assertion; which, however, is not true. Who invited it here? The Government itself. We, ourselves, sold this stock to foreigners. Our Secretary of the Treasury, with the knowledge and consent of the Government, bargained and transferred great part of it. Is this good faith, is it honorable and just? After we have received a bonus for the transfer of the stock to individuals, under the idea that the charter was inviolable and secure, to destroy the institution to get rid of this foreign capital, which we ourselves had invited here? If these moneyed

§ “You cannot create necessity, the plead that necessity.”

Every problem and danger you listed was produced and generated by the credit system and the issuing and circulating of bank-notes ---and now you plead these evils as an excuse for continuing and expanding the system of confidence-money !

Treasury Notes never produced such evils. It would be a very good crisis in the progress of the U.S. to abandon bank-notes altogether, and start using Treasury notes exclusively. (18 months from now you voted for issuing 5million treasury notes)

banking institutions are those horrid engines of political influence and corruption some have contended for, the only way to obtain any good they afford, and yet avoid their deleterious effects, is to get foreigners to send their money here, and invest it in our funds. We get the benefit of their money, while we are so far removed from them that they can have no operation on us: for, sir, it is notorious to those who are informed on the subject, that we feel less inconvenience or political influence from foreigners who hold stock, than from natives who possess it. This inference must be obvious, when I state, that foreigners who hold stock, have no vote in the choice of directors.

Again, sir, is not the critical situation in which we stand in respect to our foreign relations, a particular reason why we should not, at this time, make experiments which may injure the public revenue? If we enforce our non-intercourse law, and England attempts to resist it, and force her imports into our country by Florida, and our southern frontiers on one side, and Canada and Nova Scotia on the other, it is at least questionable, whether our revenue will not be greatly diminished. In our present unsettled situation, with our merchants staggering under the weight of the non-intercourse, embargo, and foreign spoliation; is this a moment to try experiments, that may have the effect of reducing our revenue, by crippling our mercantile enterprise, and forcing our merchants to withdraw their funds from commerce, in order to pay their bonded duties and bank debts? But, will the destruction of this bank rid us of the dreaded influence of foreign capital? No, you get in its stead an influence infinitely worse; you encourage speculation, which will produce an evil of an infinitely more pestiferous kind. If this bank be put down, another, ere long, I have no doubt, will be created: for, that another bank must and will be created, is avowed by many who vote against continuing this; and whenever this takes place, a scene of stockjobbing will ensue, to an extent which cannot be now calculated. When a new bank and a new stock is created, although by prohibiting foreigners to be subscribers in the first instance, it will at first be taken up by our own citizens, yet, if the European capitalist finds it to his advantage to have money here, he comes and purchases our stock; our citizens, in the subscription to the new stock, engage in a scene of the most debasing speculation; our citizens afterwards sell this stock to foreigners, whose foreign influence we wish to avoid; and after having gone this vicious circle, we arrive precisely at the point where we started. The same foreigners who now have so much of this bank stock, will re-invest their money in the stock of the new bank to be created. This dissolution of the bank, then, is trying wild visionary experiments, possibly, in its consequences, convulsing society to its centre, sporting with the feelings and happiness of the country, impairing mercantile credit and enterprise, injuring the tranquillity of many of our most meritorious citizens, who see ruin hovering over them from the

measure we seem like to adopt; and, after all this is done, we come round to the precise point from which we commenced.

It has either suggested itself to my mind, upon reflection on the subject, or it is an idea suggested by some political writer, (and I think the latter is the case) either Hume, or Smith,²² or both, that a gradual, silent, and almost imperceptible increase of money, or circulating medium, has the happiest effects on society, and operates as the most salutary stimulus to the exertions and industry of a nation, because it operates as a gradual, though, perhaps, nominal premium to industry, by increasing the price of every article that is brought into market; and the influence which the discovery of the mines of South America had on the European world, by bringing into circulation an increased quantity of the precious metals, is instanced, as well as I recollect, by some of the economists, as an illustration of this observation: for the increase of industry, of the arts, and of all social comforts, which soon followed this event, has been remarked by several political writers. If this invisible increase of the circulating currency of a nation is, from the causes above mentioned, productive of such happy effects, will not the immediate extinguishment of a great national bank, and the consequent diminution of the circulating currency of your country, have an immediate opposite and baneful operation upon society? Will it not produce a temporary depression of prices of many of the necessities and luxuries of life, and, to a certain extent, lessen and benumb the vigor and exertions of our citizens? It is true, this effect may be temporary, because new banks will remove the evil; but is there any reason to produce this evil even for a moment? or, in other words, should we produce this deleterious effect, for one moment, by the destruction of one bank, that we, or the States, by the erection of new banks, may remove the evil we ourselves have created? This seems to be producing a calamity, that we may either remove, or mitigate it.

The bank, it has been objected, has been used as an instrument of improper political influence.

Let it be remembered, Mr. President, that I am not advocating the mere renewal of the charter of the Bank of the United States. I am only for rechartering it on certain conditions, or, in other words, with a view that it may subscribe to the amount of its capital to a newly created bank, on different principles, of larger extent of capital, and with a portion of the directors appointed by the Government. This, sir, will effectually prevent the directors from using the bank as a political engine against the Government itself, and obviates every objection on this head. Witness the Bank of Virginia; how effectually is such an operation guarded against, there, by such a provision. I have no sympathy for the directors of this bank, who are said to have

improperly exercised this political influence; all my sympathies are in opposition to them. It is not for the benefit of, or tenderness for, these directors, that I advocate the bill on your table. I know none of them, nor care any thing about them, further than not to do them injustice. They may have conducted themselves exceedingly improperly I believe they have done so, many years past, on some occasions but this is not the way to seek redress for their misconduct. Sir, I have heard of a man, who, when irritated, in order to obtain satisfaction, would seat himself on a chafing dish of hot coals. The mode which is proposed to punish the directors for their real or supposed misconduct is equally wise in this instance. I would not injure the public welfare, and heap ruin on very many innocent men, for injuries long since committed, if at all, by these directors, and which never can be revived. Besides, this evil is gradually correcting itself. When there was only the Bank of the United States, or very few others, the consequence was, that it was a species of favoritism to get into the banks, and a privilege extended only to particular friends.

But, at the extent to which banks are carried at present, in the northern and middle States, to which the operation of the Bank of the United States is principally confined, it is not a species of favoritism to obtain bank accommodation. In the city of Philadelphia, before the late alarm, produced by agitating the question we are now discussing, every man, who could produce good paper, might get as much accommodation as he pleased; and to this extent banks should always be carried, if once commenced. This is a remedy for favoritism, and prevents the bank from being formidable as a political engine. If we go to banking at all, let it be so that all good paper can be accommodated. When the banks compete for paper, it is then not a system of favoritism. They rather seek for customers than select them. Such was the situation of Philadelphia. What is the consequence of a contrary system in Richmond? In consequence of the erection of a bank there, with a little pitiful capital, the discounts got into the hands of a few favorites, and Richmond is stated by some to have almost become a nest of shavers. Those persons who are favorites, go into the bank, get accommodated with large discounts, on the strength of which they shave the paper of others; but, in Philadelphia the situation is essentially different, from the redundancy of banking capital. Thus the evil of political oppression and intolerance, to which the Bank of the United States is said to be instrumental, is cured by the establishment of other banks; but it is possible that, to a certain extent, the undue influence of banks generally may be revived, by putting down the Bank of the United States, and creating a want of banking capital in the community. If there be a greater demand for discounts than can be met by the remaining banks, after that of the United States is destroyed, then you revive, with the remaining banks, that power of political

influence and favoritism which you are so anxious to avoid, and increase the calamity you deprecate, by the very means you take to avoid it.

In a perfectly well regulated state of society it seems to me things should be so ordered, if it can be effected, that every individual of the community should obtain loans of money on reasonable interest, to any extent for which he can give ample security. In such a state of things an opportunity is afforded to bring into action and to develop all the resources of the nation, to improve its agriculture, its manufactures, its commerce, and all the social arts, to the greatest possible extent. Such was the state of Holland, such the state of England, before the present disturbances in Europe; and mark the result. Each country polished and improved like a garden, their commerce extending over the world, and all the discoveries and arts which enrich and adorn social life, carried almost to the utmost limits of perfection. This state of things can be effected in this country only by the agency of banks; as we are every day increasing our population, commerce, and agriculture, &c. and bringing into action an increased quantity of objects on which money can be advantageously employed, a proportionably increased quantity of circulating medium or of banking capital is necessary, to keep pace with the improvements and progress of society. If this reasoning is just, it is surely improper to destroy our greatest moneyed institution, and consequently banish from circulation a portion of the circulating medium, at a period when the state of the nation is capable of employing, to useful purposes, a larger capital than at a former period. If it is apprehended that, by affording this facility of borrowing money to the extent I have insisted on, to every individual who can give security, incautious men will ruin themselves, I answer, they will do this in any state of things. To argue against the use of an institution from the possible abuse of it, is not a just mode of reasoning. A sensualist may destroy himself by excesses in the enjoyment of the table; yet more temperate men will eat their dinner. That society should be deprived of the use of an institution from which its prudent members can obtain great advantage, because imprudent people will be ruined by it, is to tax the valuable members of the community for the benefit of the unworthy.

I am informed, Mr. President, that, for some years past, in the State of Pennsylvania, any citizen of that State could obtain, on good security, from the banks, as much money as he wanted. Sir, what astonishing progress has she made in every kind of improvement and in every species of wealth. Look at the State which I have the honor to represent, whose apprehensions about banking institutions have made her averse to the extension of such establishments. The result has been, that, notwithstanding she is, perhaps, the greatest agricultural State in the Union, furnishing more copiously, (and the most valuable) articles

of export, and possessed of all the materials of commerce, she is destitute, in a comparative degree, of commerce itself. When cargoes of wheat, flour, or tobacco, are wanted in Europe, a merchant of Philadelphia is applied to to furnish these articles, though they are to be purchased in Virginia. Wherefore? Because, having no banks in Virginia that are adequate to the wants of society, our merchants cannot afford to advance the money, purchase the cargo, and draw for the amount. On the contrary hand, the Philadelphia merchant can go into a bank, get as much money as he wishes to purchase a cargo with, send it on to Virginia and make the purchase, and, after the vessel is loaded, draw on the owner for the amount of the cargo and his commission. Comparatively speaking, all mercantile profit is drawn from us; our produce is exported and our imports imported by the merchants of other States, who derive all the profits of our commerce, which, in a different state of things, would remain with us, and constantly increase the wealth and resources of the State.

I have been induced to enter into this train of reasoning and statement of facts, in order more clearly to illustrate this position, to wit: that, in order to prevent a banking institution or its directors from having a political or other improper influence, it was not necessary to destroy an institution which was in itself useful, but to correct its abuses by extending the banking principle till all good paper could be accommodated. I have stated that, in Pennsylvania, until the present alarm which this discussion has produced, any person deserving credit, could obtain it to any extent he wished. The banks, in such a situation, compete for customers, and, in such a state of things, their political influence is gone. In Virginia, on the contrary, in consequence of the limited capital of the bank being very inadequate to the demands of society, it is a matter of special favor to get into the bank. A banking capital, to this limited extent, is an injury to the community: for, in such a state, the bank not being able to accommodate all, must select its favorites, which gives to them particular advantages, which others do not possess, and enables them to apply to usurious purposes the money they get out of the bank, by lending it to others, who, if there was a sufficiency of banking capital, would themselves go into the bank and be accommodated with that very money for which they now pay an usurious interest. Such a bank is an evil, and in such a state of society, where there exists such a difficulty of loaning money, a man worth \$20,000 may have his fortune sacrificed to pay 5,000. This statement will clearly illustrate the object I have in view, which is to show that, by extending the banking system to the proper extent, if you once commence it, you destroy its political influence, and prevent it from being an instrument of either public or private oppression. Such is the situation of the Bank of the United States at present. Whatever may be

the disposition of their directors, they are incompetent for all the purposes of influence.

Mr. Giles said it was with regret he interrupted his friend; but he seemed to suppose that the banking capital at Richmond was so small as to convert that city into a society of shavers. This was not correct. He (Mr. Giles) had a conversation with the president of the bank, from whom he understood that the bank could do more paper than was offered to it.

Mr. Brent said he had heard no positive information as to the fact he stated; but it was well known that men as good as any in the United States had not been able to get their paper accommodated. He knew the president of the bank, for whom he had a sincere veneration and affection; no blame attached to the bank. He said that the establishment of a bank anywhere, however pure, provided it was not adequate to the wants of society, would produce shaving.

Mr. Brent said he had many other remarks which he wished to submit, but [the hour was so far advanced](#) he would not trespass further on the attention of the Senate at present. If a fit opportunity should hereafter occur, he might again take the liberty of making a few observations on this subject; but he would avail himself of this occasion to say, that he did not mean to make any reflection on the directors of the Bank of Virginia they were not, in the smallest degree, censurable. He believed the affairs of the bank were ably and honorably conducted by them.

Tuesday, February 19, 1811.

Motion to strike out the first section.

MR. TAYLOR. Mr. President: Although much time has been consumed in the discussion of the subject before us, and the ground completely occupied by those who have gone before me, yet the importance of the subject, the immense magnitude of the unhappy consequences likely to result to the nation from the rejection of the bill on your table, compel me to offer to it all the support in my power. Indeed, sir, to this sense of duty to the nation is superadded a very sacred, and to me dear and indispensable duty ---my duty to the State which I have the honor in part to represent--- as well as another duty which, from the course which the debate has taken, is not to be disregarded ---I mean, sir, the duty which I owe to myself.

I cannot, as other gentlemen have boasted they can, put my hand into my drawer, and pull out the instructions by which I am to be directed on this important subject.

The State of South Carolina is a very large stockholder in some of her State banks; and if a selfish policy, contracted to the narrow sphere of the unique advantage in dollars and cents of the Government of that State, in contradiction and disregard of the interests of the great body of her own citizens, and the citizens of the rest of the States in the Union, could have weighed a moment with her Legislature, I too might have been instructed. Let me not be understood, Mr. President, as drawing any comparison between the conduct of the State of South Carolina and the conduct of great and leading States, who have acted otherwise; but, I must and will tell of the things that I do know. I rejoice, sir, that the State which I come from has, in this instance, been actuated by that magnanimity and patriotism which on all former occasions has distinguished her conduct; that neither selfishness nor party rage, nor a spirit of intolerance, has induced her to counteract or embarrass the National Legislature in its pursuit of the great object of its institution ---the good of the whole.

I hope it will not be considered as savoring of egotism, when I say that my appointment to the very honorable station I now hold was unsolicited by me. That my sentiments on the

subject now under consideration had been, by me, unequivocally expressed at the last session of Congress, and were well known to those who appointed me; nay, further, after my venerable and respected predecessor had resigned his seat here, and had declined also his appointment for the ensuing six years, pending the election of a successor to him, and when my name was held in nomination, a resolution was offered, similar to those which we have heard so much talk about, proposing to instruct the Senators of that State to oppose the renewal of the charter of the Bank of the United States. This resolution, as I am informed, lay on the Speaker's table when the election was gone into. I was elected; and the proposers of the resolution had not power or influence enough to raise it from the table on which it lay, and it died still born at the end of the session; and if I were to make an inference, at all, on these transactions, I should suppose I was tacitly instructed to vote for the renewal of the bank charter. But I seek not the avoidance of responsibility. It is here, sir, (in my own bosom) I have instructions paramount to all others; my beloved country has rested the matter here, and my gratitude is superadded to all other moral obligations operating on me to perform this trust and to execute this duty with faithfulness. I find the authority of Congress to grant this charter in the same sections of the constitution which the gentlemen who have gone before me have pointed out to you. In section 7th, clause; 1st, power is given to Congress "to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties shall be uniform throughout the United States."

Clause 2d gives the power "to borrow money on the credit of the United States." And in the last clause of said section, power is also given to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, vested by this constitution in the Government of the United States, or any department or officer thereof. Let us understand the meaning of the words necessary and proper, in the last quoted clause: for, upon a correct knowledge of these depends, in my opinion, the correctness of our

conclusions on this subject. The word necessary, in its technical and legal sense, in the meaning affixed to it in common parlance, established by usage, custom, reason, and the common law of the land, is different and distinct from the signification of the same adjective derived from the substantive necessity, as used by Hobbs, Hutchinson, Hume, and the other metaphysicians of the last century. It is well known that they used the substantive necessity as synonymous to the word fate; and which necessity, according to the opinions of one party, controlled omnipotence itself. This necessity was supposed by them co-existent with the Deity itself ---not prospective nor discretionary; bending in one way, and in one way only, all substance, all matter, and all spirit. This meaning of the word is only to be found with these metaphysicians and philosophers; but, in our law books, in the daily and hourly use of the word in common conversation, it has no such meaning. When the old Congress passed the conditional charter, (which I admit they had not a delegated power to grant) but which is fully in point, both as to the signification of the word, and also of their opinion of the necessity, and even of the indispensableness of a bank for administering the fiscal concerns of the nation, in the conclusion of the preamble they say, that the exigencies of the United States render it indispensably necessary to pass the act, &c; and in the laws passed during that period, when this Government was in the habit of following the English custom of beginning the laws by a preamble, you find the word necessary used as synonymous to expediency, practical expediency, (see laws of the United States, vol. 1, page 247; idem, 276.) In fact, among frail mortals, with fallible judgments like ours with any beings endued with less than omniscience the word necessary must be only applicable to the honest judgment we can make up concerning the subject to which we apply it; in other words, it is resolvable into that sound discretion with which, as moral agents, we are, in the first instance, entrusted by our Maker, and, in the instance now before us, we are entrusted with by the constitution and by the citizens who have sent us here to transact their business. But the rigid necessity which our opponents wish to

enforce on us, this metaphysical necessity, must, from its very nature, be immutable; it must be unique; and could not exist in a greater or less degree; and, therefore, the word joined to it in the constitution, proper, could have no meaning at all. The laws to be passed must be necessary, is the only way given, under heaven, by which you are to effect the end desired; in other words, the law must be imposed by fate. It is perfect nonsense to say that there is a latitude left with us to judge whether such a law is proper or improper. I have, I think, brought the meaning of the word necessary to the level, and within the comprehension of frail human intellect. The signification of the word proper I take to contain the description of the measure or law to which it is applied in the following respects: whether the law is in conformity to the letter, the spirit, and meaning, of the constitution; whether it will produce the good end desired, in the most ready, easy, and convenient mode, that we are acquainted with. Let us apply these definitions to the matter in hand.

Our opponents have admitted, that banks are necessary to receive and take care of the revenue of the nation. They have, by their statements, shown, that there is little more than one half of the amount of specie in the country which the national revenue rises to, annually; and the burthen of the song is, that State banks will do.

Banks are then necessary and proper for the collecting, transmitting, and safe keeping of the revenue. Banks are created by law. Congress, by the constitution, have the right of passing laws necessary and proper for the foregoing purposes. Banks are necessary and proper for these purposes; therefore Congress have the right of passing a law to make a bank or banks. But the power of granting charters and creating corporations is the exercise of the highest act of sovereignty, say our opponents. I know of no scale by which these acts of sovereignty are graduated; the power of legislation implies sovereignty; and the description of a high law and a low law is hardly to be found in any book I have yet met with. I will not dwell on this topic. The arguments of the gentleman from Virginia (Mr. Brent) on this point, are unanswerable. It is curious to observe the extremes to which some of our

statesmen carried their doctrine, twenty years ago, on this subject of charters and corporations; and I have recently met with some who deny that any government has the right to grant them. Our little town corporations, and our city corporation in the State I live in, have had to pass through the legal ordeal to satisfy the doubts of those who entertain this opinion. But now, all the States, undoubtedly, exercise it, or rather, they have continued to exercise it from their first existence. So have we, in legislating for this territory. If this power is derived from the broad terms of the grant to pass laws for this District, in all cases whatsoever; and if the unlimited, unrestricted grant, thus made, is supposed to dub us with the higher or quintessential sovereignty, I think it would not be a difficult matter to prove, that this broad grant is, in fact, as much limited and restricted, according to its nature, as the grant of power in the concluding clause of the 8th section which I have before cited.

Can Congress even pass a law respecting the territory of Columbia, which, according to their opinions, shall not be necessary and proper? The well-being of its citizens or the well-being of the citizens of the whole nation, (for even legislating the territory into non-existence, if we could do so) these would be the motives; in fact, the Legislature must be *non compos mentis*, who could or would assign, as a general reason, for any of its acts, one opposite to this one of its being; necessary and proper.

Great stress is laid on that amendment of the constitution, which says that all power, not expressly granted, shall be retained, &c. Either the general clause I have relied on gives power, or it does not; if it did not give power, why was this amendment made? And if it did, and this power was offensive, why was it not stricken out when the amendment was made? But if it expressly gave power, which I contend, its being suffered to remain is proof that it was not the design of the amendment to take away the power given. Could not the territory of Columbia have been governed without erecting a single corporation in it? I don't mean well-governed? But was there that fatal necessity, that command from Jove,

"Ye fates fulfil it and ye powers approve,"

To erect corporations. This legislation to erect corporations being, according to our opponents, *sui generis*, not of the ordinary kind, and only to be exercised where the express authority is given by the constitution, I ask gentlemen to shew the clause in the constitution which expressly gives us the power to perform this sublimated act of legislation in this territory, any more than in any other part of the United States; and yet, at this very session, we have sent an armful of these high acts. The shelves of the office of the Secretary groan under the pile of charters we have grunted.

I said it was easy to prove that the broad grant given to Congress to legislate for this territory, in all cases whatsoever, was restricted and paled in by the constitution. Congress cannot make the duties here on imports less or greater than elsewhere in the United States ---imports and taxes must be equal, &c.--- nor deprive the citizens thereof of the right to a trial by jury, nor grant them titles of nobility; and yet the incidents here alluded to would come under the description, in the clause, "of all cases whatsoever." In truth, sir, there is not a scintilla of the spirit, nor a single word or letter of the constitution, that loses its power and sanction upon our conduct in legislating in this particular. There is no more a power given us to legislate *ad libitum*, on this territory, nor to derive therefor, powers by implication, than is given us in the laws we pass for the whole nation; and if this power, *sui generis*, of creating corporations, is properly defined by our opponents, they ought to go back to the works of yesterday as well as to those of twenty years standing, in order to introduce their new order of things. I might here draw a comparison of the tried scheme of using the United States' Bank, and the untried scheme of using State banks, in aid of the operations of the national treasury; but I should only be saying with less force what has been so fully and so conclusively said by the gentlemen who have preceded me. Suffice it to say, that, for safe-keeping, for transmission and payment of the funds to any part of the nation, and for enforcing the punctual payment by the debtors to the customs, by addressing to those debtors the arguments to the sense of honor and shame, and also to their interest, to wit: by denying them credit in the

bank, on failure of punctuality ---all these have been afforded to the Government without its incurring therefor one cent's expense. Are we sure the State banks can or will do this ?

I beg pardon of the Senate for detaining them on topics not new. As this is made a case of conscience, I deemed it necessary to be thus particular. I have no hesitation in saying, we have the right to act on this subject, inasmuch as I think the bank is both necessary and proper for the purposes above referred to.

To me it appears that this power is expressly granted ---we derive it not by implication; but our opponents in fact are pressed to the necessity of using implication to come at the denial they set up against the exercise by Congress of this power.

I say, further, that this institution is necessary and proper for carrying into effect another general power, viz. the power to borrow money on the credit of the United States.

I am one of those, Mr. President, who have always thought a superabundant treasury was no national blessing. It is very easily to be demonstrated that, as to the effect of accumulating national wealth, one dollar in the pockets of our citizens would add twice as much to the common stock as the same sum taken from them and lodged in the strong box of the treasury. None but the nerve of a rigorous and miserly despot, such as was the father of Frederick the Great of Prussia, could ever keep it together after it was collected. I fear that we republicans are so generous in our natures, that, in some way or other, for some favorite project of a fortification or fortifications, whether by land or water, we should let it go, and think, too, we were doing the greatest possible good with it. For sudden emergencies, then, I conclude, while our Government lasts, we shall have to anticipate by loans, taking care, as I hope we always shall, and as we have done, to provide for the early release of the Government from such obligations, which the necessary or sudden emergencies are not to be suffered to accumulate. The Bank of the United States serves for effecting both objects ---quick and reasonable loans. One clause of the bill compels the bank to loan to the United States the amount of half its capital; and the form of

these loans, as heretofore practised by the Government, is by a mere entry in the bank books, and in the books of the treasury of the United States, of the money borrowed, and the interest stated which is payable thereon; in other words, there is no transferable stock delivered out, and which the Government cannot redeem whenever it pleases. I ask gentlemen, if the Government is not bound to provide the means necessary and proper of exercising this power of borrowing, and whether there can in any way be devised a more proper mode for the advantage of the nation than the plan proposed; and will not this ready resource, which we shall have for five, six, or seven millions of dollars, serve to keep off the pressure and the combination of individual rapacity and of individual concert and cabal, with which your efforts to borrow may be met by the large capitalists, and give to the Government time to borrow even from foreigners, if with them we can make a better bargain for the nation? I know some gentlemen talk largely of the vast sums of money which our citizens have ready to pour into the lap of the Government, if to them it should apply for a loan. The same boasting took place at the time this Government made its only experiment to borrow money from its citizens. Yes, sir, when there was a mighty rage against France, and the Government was urged into the expensive measures of that day, the experiment was made, and we had to give usury; sir, we had to give an interest of two per cent. more than the legal interest in the States where the loan was effected.

The present crisis is an awful one. The system of non-importation is now in operation, which hermetically seals the lid of your treasury box to the admission of revenue. It is known we shall have to borrow money. And after you put down this bank, where is the loaning capital of the nation to be found? I'll tell you where; it is under the management of the State banks; and those State banks, at least in the largest money holding State in the Union, (Pennsylvania) are precluded from loaning to the United States, unless by consent of the Legislature. Will you go to those gentle and good souls, who give to the distressed the good bargains which the gentleman from Maryland (Gen. Smith) told us of ?

Will you apply to the mercy, and kindness, and patriotism, of those ravenous sharks and shavers, who are even considered as acting very moderately when they take from the distressed their one and a half per cent. per month, or eighteen per cent. per year, for the use of their money ? I don't expect much patriotic support from such men as these; they would spurn you with contempt, if you offered them your pitiful and beggarly six per cent. But the State banks are the panacea for all difficulties; they may lend you the money you want, provided you get the consent of the State which granted their charters. But all the States have not restricted their banks from lending money to the United States. I am contemplating this, not for a day only. Do you believe that New York or Maryland, after experiencing the effect which this controlling power of the State, over the money of its citizens, shall have on the General Government, will act so unwisely as to forego the advantage of influence in the Union derived from their dollars and eagles, and act so unjustly to themselves as not to follow the example? Why, sir, not for selfishness sake, but for the sake of fair play, they ought and would do it. The States ought as little to disparage us, in the exercise of our legitimate functions, as we them; yet, by the operation of these State charters, millions of money are put out of our reach unless by their consent; when, by the constitution, we are undeniably permitted to borrow money. Are we come to this, that this meagre and grim demon, this Dr. Snatchaway, who not only denies the powers derived incidentally, (although we have exercised them thousands of times) but before whom withers and perishes the powers expressly granted that this Devil Doctor is even now about to renew to us the distress of the honest Governor described by the inimitable Cervantes ?

I beseech, gentlemen, not to bring on a premature old age in this our Government; I beseech them not to disfranchise the Government of the necessary powers for carrying it into effect; and not to throw away the experience and the acquiescence of the nation for twenty years' duration; and I most fervently beg that this power should not be surrendered to the great and leading States, because they have inconsiderately asked for it; that Congress will not, in imitation

of the good old Lear, yield to the members of our family what is wholesome and necessary for supporting our own household. Soon, very soon, the eyes and ears of one or more of the members of our family may be offended at the sight of our committees, our mendicant missions lounging about the lobbies and galleries of the State Legislatures, as some of us have been offended at the presence of the missionaries lounging about our galleries. We, who are now supplicated, will then be supplicators. While we succumb to the views or prejudices, or State policy, of each particular State, from whence we implore the permission to borrow, we may succeed; but act independently, run counter to their local feelings, they will not lend you a doit. Think you, sir, that the State of Pennsylvania would have consented to your making a loan from its banks at the period at which General Bright was in battle array against your authority? Think you that Massachusetts would have treated your beggars kindly during the embargo ferment? Would the gentleman from Maryland, with his high standing in that State, the turn of whose politics, he says, may depend upon the continuing of this bank could he, sir, with all his commercial knowledge and the eloquence he displays, have obtained the giant of a favor to the Government of the United States about two years ago? Ah! no. sir. When civil broils, when political intolerance and party rage, shall pervade a Legislature, they will act as other men; and if excited only to the height to which the newspapers seem anxious to excite them on the present, occasion, there might be rashness enough found to induce them to use your messenger as was used the good old Kent, when supplicating in the cause of his houseless master.

The gentleman from Virginia (Mr. Giles) has called the attention of the Senate to the 9th article of the amendments of the constitution, viz. "the enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the People." Now Congress have the power to borrow money; and from plain and necessary implication, though not by express delegation, (such as is required by gentlemen in the instance before us) we have the power to fix the rate of interest to be given; yet the State Legislatures have

the power of fixing the rate of interest which their citizens lending money shall receive, and have fixed and established that rate, and enforced the provisions on this subject by severe penalties. I know not how Mr. Adams found the States so much asleep to their rights when he tempted their citizens to become usurers, and this, too, in denial and disparagement of State powers actually exercised. If the present vigilance had then been exerted, I should suppose he was very lucky that he was not as much harassed as were some of the victims under his sedition law. Carry this doctrine of rigid construction, in respect to this instance of collision of State and United States' authorities, to the extent contended for by the opposers of the bill; enforce, to the fullest extent, according to its obvious meaning, the amendment last quoted; and we shall be surrounded with powers which we dare not use. We may borrow; but the citizens will not lend for the legal interest established by law. The States prohibit them lending at an usurer's interest, and impose heavy penalties if they do; or, to embarrass the General Government, the States, or some of them, holding the moneyed capital, may prohibit individuals, as they have prohibited the banks, from lending to us; and thus benumb all our energies. In fact, sir, the doctrines and notions I have heard enforced here, seem calculated to place us in the situation of the miserable Tantalus; the limpid and wholesome stream is within our reach, but we dare not reach out our hands to take up a drop to cool our tongues, destined to the sufferance of eternal thirst.

Let me now inquire how the destruction of this bank is to operate on the nation at large. By the minute detail of the honorable Senator from Maryland, (General Smith) of the mode and manner, and by what commercial operations, the foreign capital in this bank is to find its way out of the country, I take it to be one of his motives for putting down this bank, that the foreign capital should be drawn out of the country. Indeed, if this were not his object, I cannot see why his heaviest artillery was brought to bear upon the foreign influence, which he alleges this foreign capital brings into the country; and yet neither he, nor any one who has cried aloud against this sin, has produced a single instance of a foreign

stockholder having exerted his influence against the Government of this country. [Baring's book, on American affairs, might be adduced as an instance of the opposite effect produced.]

The farthest that the assertions go, is, that our own citizens, federal bank directors, may have exerted their influence; and they and their money, which is not proposed to be annihilated by this bill, may, and probably will, be brought to bear against us again and again; and the only remedy I see would be to kill them and take their money. This would effectually destroy their influence.

To return, sir, to the grand object of drawing out seven millions and upwards of foreign capital from this country. I know that some have asserted, with great confidence, that the section of the Union, north and east of this, is saturated with a moneyed capital, domesticated, sufficient for all the purposes of its citizens. I cannot prove that this is incorrect, but, from the anxiety shown by those People, (on the subject now before us) by the moderate 18 per cent. loans we have heard of, I should remain a perfect Thomas as to the correctness of this assertion. Let me speak of those States concerning which I am better informed: I begin with Virginia, because it is nearest. This State is indented with the finest bays and rivers in the world, her shores are bold, and her waters deep, affording ports and harbors in more abundance than are to be found in any State of the Union; look at the weight of tonnage employed in carrying to the old world the immense proceeds of this productive country; their citizens equal in intellect and enterprise to any in the world. What is the reason that they pay a transit duty, annually, to New York, Philadelphia, and Baltimore, to more than double the amount of their State bank stock, in profits to the shipping merchants in these cities, in freights coastwise of the produce, and in the freight, also coastwise, of European supplies? Does this evidence no want of commercial moneyed capital within the reach of the citizens? Travel through it, compare it with the Northern States; at every step you see apparent the disadvantages it labors under in this respect. Why, sir, the circumstance of the basin at Richmond, with a fall of nearly one hundred feet,

remaining for ten years a stagnant pool within the heart of her capital city, when, with this power, more machinery than is to be found in half the manufacturing towns of England might be propelled ---tells the secret.

It is a well known fact, that the trade of North Carolina, with the exception of a few vessels with naval stores and lumber, makes its humble attornment to the city of New York. South Carolina and Georgia have a small portion of their commerce direct with Europe; but the thousands of bags of cotton shipped from the ports of Philadelphia, New York, and Boston, the circumstance of there being eleven packets constantly trading to New York, alone, from Savannah, and as many, or more, from Charleston, show plainly that this transit duty is paid by us also. The French emperor knows this as well as we do ourselves, and his provision for admitting cotton from New York is not because he did not know the article did not grow there, but because he knew the capital there acted like a loadstone, and drew the article from the States in which it grew. I do not mention these things invidiously; I wish prosperity to these cities as well as to the whole Union; but protract not the growth of other parts of the United States, by driving out the means from the country by which they have grown, and which, if let alone, might be extended to us also.

No man who has attentively considered the rise, progress, and growth of these States, from their first colonization to the present period, can deny that foreign capital, ay, British capital, has been the pap on which we first fed; the strong aliment which supported and stimulated our exertions and industry, even to the present day; the Southern People, although they have received the goods, and sold their crops to British agents and British factors, whether in their own cities or those further North, are not the less republican, nor the less independent in their politics, nor the less free from foreign partialities. I will here mention a fact, which I happen to remember, which, among ten thousand other instances, might be mentioned, of the benefit derived to the country by the use of this detested foreign capital. In the progress of the digging of the Santee canal, the greatest work of the kind in America, the expense so far exceeded the calculations of the company

who had undertaken it, that many of the stockholders, like all sanguine calculators, were straightened in paying up their instalments as they became due; these obtained accommodation at the bank; but, even then, it was found difficult to progress, and at length the company actually borrowed of the branch bank the funds to complete it; and, unless it has been very lately paid, the company still owes a very considerable sum to the Bank of the United States; and, but for this accommodation, it is more than probable that this great work, which is capable of facilitating, to a most convenient degree, the transportation of the products of nearly half the State of South Carolina, might never have been accomplished.

We have heard much of parties and party spirit in this discussion. I'll tell you, sir, who will compose the parties in the immediate concussion about to be produced by the downfall of this bank ---the withdrawal of fifteen millions of circulating medium, either in actual paper bills, or in bank credits, answering the full purpose of circulating medium, while the merchants are under distress from foreign aggression, and while the Government has commenced its restrictive system on mercantile operations; while it will make the money more scarce, will make it more dear, and of course will make property more cheap; produce will fall; it has fallen in consequence of the anticipations on this subject the small trader, and the young industrious and enterprising mechanic and manufacturer, whose stock (and it is the best stock in the world) is his honesty and fair reputation, and on which the banks have advanced him money, must pay off at any and every loss, or perhaps buy his money at the moderate premium of one and a half, two, or three per cent. a month. These men, such as the worthy suppliants from Philadelphia represent, will be delivered over to be devoured by the sharks and shavers, who are now prowling for their prey, among the distresses and calamities you are about to inflict on that class of citizens, the most worthy the care of a wise government. The parties are the rich-cash-in-hand men on the one side, and the great agricultural and manufacturing interest, and the small traders on the other.

If I had only heard and not seen the gentleman from Tennessee, (Mr. Anderson) when delivering his oration in praise of republican simplicity, I should have thought we had another Diogenes preaching from his tub; but there needs no oratory to convince the mission in your gallery, and their friends behind them, that, after the big fish have eaten the little ones, they will neither have motives or means for departing from the chaste frugality and republican simplicity of manners, recommended by the words of the gentleman; it will be only those who have fattened upon the spoil who can indulge in the simple style and plain and humble habiliments of our modern Diogenes.

I have said I rejoice in the prosperity of every part of our Union. But, either the gentleman or I have proceeded together upon very mistaken grounds. I thought the seizing of West Florida was, among other objects, to answer the purpose of giving an outlet for the products of Tennessee and the other Western States; I thought, too, the purchase of Louisiana, at fifteen millions, to be paid by the whole nation, was for this object also; and I cannot suppose that the effecting of this object would tend to make the People poor, or preserve among them this Republican simplicity of manners ---on the contrary, I do hope and expect, that it will tend to promote the industry and enterprise of the citizens, and develop the vast resources of wealth, profit, and strength, of our Western brethren. Perhaps the resolution on our tables for imposing additional duties on hemp and hempen manufactures is also designed to promote the wise project of keeping our Western brethren from growing too rich, and thereby preserving our republican simplicity.

I have not yet done treating this as a party subject. I did not, it is true, come here to legislate for a party, or for any particular administration; but where I think a measure is subversive of the interest of the nation, and subversive of the party to which I am attached, it is not unfair to take this latter aspect into view also. Let it be recollected that the present administration have not a single leading (for they arrogate the term as well as the States) paper, republican or federal, in the nation, except the paper edited here, (which is mild in its tone,

and not, as yet, disposed to rush into the fire to defend the powers that be) I say let it be recollected that there is none of these irresponsible dictators to public opinion, who lift a quill in our cause. The constant theme is the baseness and tergiversation of the tenth and eleventh Congress, and the wickedness and corruption of the servants of the public, and ever and anon their lash reaches beyond our shoulders, and strikes the Executive also ---but more is coming yet from them--- they have shown their teeth. It is true we may follow those calling themselves republican in the vote which we are now about to give. But, do you think, for this act, that they will come back to your aid that they will take us for better for worse? No, sir; when the evils which will be produced by the rejection of this bill; when private distress and public embarrassment shall raise the outcry; they will ride on the winds, and direct the storm, and will be the first to cry out there is no energy in us, and to join any intrigue to hurl us from our seats. It is easily to be demonstrated that, by the details of the bill on your table, if its friends were suffered to perfect it, it would produce, say in the bonus, one and a fourth millions at least, perhaps two millions of dollars; premium on the five millions of stock to be created two and a half millions; in the whole, at the lowest calculation, three and three-fourths millions of dollars, which will be given up, lost and abandoned, by us. Will gentlemen recollect that only half of this sum, taken from the People by the direct tax, hurried Mr. Adams and his friends to their political death? And the People are not such fools as not to see that what is taken away from the treasury is taken from their pockets; you may disguise it as you will, by procrastinating loans, it will not escape their detection.

And for whom is this mighty sacrifice to be made? If the ministering to the treasury of the United States is worth to the Bank of the United States so much that it will accept the terms above-mentioned, and you resolve to employ others to do the same thing, in this office, worth so much to the Bank of the United States, worth less to them ? This is the lever. Here the real parties are apparent. The nation ---the great agricultural interest, the solid yeomanry of the country, on one side; and

the city influence, the London and Paris influence, on the other. The advantage palpable of nearly four millions of dollars, wrested from the Government, and of course from the People, and sent to whom? To the great capitalists, monopolists of State banks, to the Leadenhall Street gentry, whose insatiate maws could not be glutted by the plundering of an empire. Do you believe, sir, that the great body of the people, who are actuated by the impulse of feeling, and who may not indulge in the nice distinctions we have drawn here about the constitution, but who have experienced the convenience of a circulating medium, current over the whole extent of the Union, and who have witnessed your numberless acquiescences to the legality of this institution, and read your laws for punishing those evading its rights, and your numerous laws for trusting, trading, borrowing, and receiving favors from this bank ---will this your recent discovery of its unconstitutionally be an excuse for giving away twenty per cent. on all their produce, and for the giving away double the amount of that tax, for the imposing of which they condemned your predecessors ?

I fear for the safety of the constitution itself. It has been denounced by those who have denounced us. The feeling is quickly transferred from the ministers under the constitution to the constitution itself. The clamor has gone forth that we want energy ---that the constitution wants energy ---and a vast remedy has already been proposed by the *Aurora* itself --to give Congress the power to lay an export duty upon the productions of the country more of your London and Paris influence ---to lay the agricultural interest under the ban of the empire. Consolidation is the watchword. Preserve your constitution without abandoning its legitimate powers, such as you have prospered in the exercise of, and I fear not this hobgoblin; but weaken it, place it to lean upon or revolve round any local State policy, and to obey the beck and call of any one or of all the leading States, and the rights and interests of the State I represent, and all the other smaller States in the Union, could not be very much affected by any change.

It is acknowledged on all hands that [there is not specie enough in the nation](#), if applied solely to that purpose, to pay

our annual impost. The operations of the Bank of Columbia in transferring the revenue derived from a part of Virginia (and of the land funds from the westward) and of the Manhattan Bank, in performing the same office in respect to the collections in Connecticut, have been dwelt upon by the honorable Senator from Maryland, (Gen. Smith). His arguments, drawn from the facts would have been more conclusive, if he could have instanced the same facilities afforded to the Government between banks disconnected by the effect of that neighborhood circulation and of that course of trade very apparent in the instances he has produced. But it is not conclusive at any rate. There is a neighborhood medium of circulation (the State bank paper) and there is a national medium (the United States' paper.) The latter, under the present state of things, corrects the operations of distant banks, and renders their transfers easy; but, deprived of this, would any of them, situated at four or five hundred miles, or at 1000 miles distance, agree to make these transfers for the Government free of expense? Could they, for instance, transfer the solid bullion, belonging to the United States, from Orleans, to Boston or Philadelphia, without our affording compensation for freight, insurance, &c.

I have witnessed the advantages of this national medium in the State I live in; and in the months of autumn, when strangers are fearful of venturing to Charleston, our Western friends, rather than carry the hard dollars, are in the habit of giving two or three per cent. for bills of the Bank of the United States. Destroy this national medium, you insulate the State banks, which are so far asunder as not to be within the influence of the neighborhood medium of circulation. The stroke of our dreadful wand disconnects the ligament by which they are bound together in their distant operations.

Gentlemen tell us we must use the State banks, and of consequence the State bank notes. Some of these notes happen to be worth nothing ---Gloucester bank notes for instance--- and they are graduated in different parts of the continent, from par, down to twenty or twenty-five per cent. below par, and the market value is, in some instances, perpetually changing ---our treasurer must, if he can, separate

the sheep from the goats--- and this is to be perpetual labor. Even good notes, at par, when received, may be useless to the public creditor, who is to receive them. A Portland bill, for instance, would not get me a meal's victuals from this, home; and an Augusta, or Savannah, or New Orleans bank bill, would not have its value understood in New England.

Indeed, Mr. President, this chaos, this confusion, about to be introduced in our treasury, and the legitimate exercise of our constitutional powers as a government, is likely, too likely, again to exhibit to the world the distraction, and, perhaps, dispersion, (which God forbid) which the seed of Noah experienced at the Tower of Babel.

I have given, candidly, my honest views of the subject before us, meaning no uncharitableness to those honorable gentlemen in the Senate who differ with me, and, infinitely rather would I, that, after the trial, and after long experience to come, all that I have said should be discovered to be founded in error, the effect of a heated imagination than that my country should suffer a single pang, though in fulfilment of the things I have this day uttered.

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MR. PICKERING. Mr. President: Having received, from the House of Representatives of Massachusetts, an instruction, in the form of a request, "to oppose the renewal of the charter of the Bank of the United States," and some other members of the Senate having received, from their respective States, instructions to the same effect, I will make a few observations on the subject of instructions.

I was pleased to hear the gentleman from Virginia, over against me, (Mr. Giles) after reading his instructions from that State, express his opinion decisively, that instructions from constituents were not binding on their legislative Representatives. Concurring entirely in this opinion, I will offer some reasons, to show that they are erroneous in principle, that they infringe the rightful independence of Representatives, and, in respect to members of Congress, that they violate the constitution of the United States.

In a small community, where all its members can meet together and consult on the measures necessary and proper to promote their common interests, their decisions are the result of deliberation, of reasoning, and of the interchange of sentiments. When the members become too numerous, or are too widely extended to admit of their personal attendance in a general assembly, it seems to be a very natural provision to select a convenient number of them to meet together to manage their common concerns; in the same manner they were before conducted by the whole community. And thus, from the very nature of this institution, it becomes the duty of the persons composing the representative body, to consult, deliberate, and mutually communicate their reasons and opinions, and thereupon, finally to decide on the measures requisite to be adopted for the welfare of the community. Hence, it follows, that all peremptory instructions, or naked requests, designed to control or influence the votes of the Representatives, are subversive of the fundamental principle of a representative government. Such instructions, or requests, addressed to members of Congress, do, also, violate the constitution of the United States. The first sentence in that constitution is in these words: "All legislative powers, herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." Now, therefore, if State Legislatures undertake to dictate, by their instructions, or by requests which are intended to operate equally with instructions, what votes shall be given on any question, by their Representatives in Congress, they so far assume the powers vested, by the constitution, exclusively in Congress. And if their instructions, or requests, are obeyed, then the State Legislatures, and not Congress, enact laws for the United States.

If, indeed, a State Legislature should, in the form of instructions or requests, enter into a train of reasoning, and present arguments which should convince my understanding that any measure under consideration in Congress, was, or was not, consistent with the constitution, and exhibit facts which proved its utility, or injurious effects, then I should yield

obedience accordingly; but to what? to instructions or requests? No: but to reason and to truth.

In another respect, such instructions and requests violate the constitution, in regard to the members of this body. Senators are chosen for six years. This was intended, by the framers of the constitution, to give them that independence which should secure freedom in thinking and acting. But, if Senators were bound to obey the instructions of their respective State Legislatures, that independence would be wholly destroyed. Indeed, it would put Senators as absolutely in the power of their constituents, as if the State Legislatures had the right to recall and dismiss them at pleasure.

I will now, Mr. President, make some observations on the main question under consideration whether Congress have the power, by the constitution, to renew the charter of the Bank of the United States. It has been said that the power to incorporate a bank for the United States, is a substantive and original, and not a derivate or implied power. This has been repeated; but I have heard no arguments in support of the position; it is a naked assertion. It has, also, been called "an act of sovereignty;" as if to alarm and deter us by its awful magnitude. But, sir, the sovereign power of Congress is sometimes exercised on subjects of comparatively little moment. A few days since we passed a bill to authorize the erection of a bridge; and another to change the name of an individual, to enable him to inherit an estate. The power of Congress is sovereign to all the purposes of the constitution. They can lay and collect taxes, duties, imposts, and excises; borrow money; regulate commerce; and make all needful rules and regulations respecting the territory and other property of the United States. And they have power to make all laws necessary and proper to carry the foregoing, and all other constitutional powers, into execution. When proposing to exercise this general power, in any case not expressly mentioned, we have to consider whether it be "necessary and proper." It has been said that "necessary" here means indispensable; something without which a particular power, expressly granted, cannot be carried into execution. But, sir, I see no ground for this interpretation. In the affairs of a nation

or other community, whatever the public good requires to be done, is necessary and proper to be done. It is a moral, not an absolute necessity. It is necessary for me to be here, in my place, because it is my duty to be here. Necessary and proper are opposed to unnecessary and improper. Congress should do no act unnecessary and improper; but, like State Legislatures, do whatever is necessary and proper to attain the objects for which they are respectively constituted.

In determining whether any proposed measure be necessary and proper to carry into execution any power expressly given to Congress, we have to consider whether that measure has a just or useful relation to the end. For instance, the constitution having prescribed no mode of collecting the revenues, it rested in the decision of Congress to adopt such a mode or such modes as should appear to them best adapted to that object. Instead of appointing custom-house officers in the large commercial cities and towns, where a banking establishment could be supported, Congress might there have erected banks the most certain, punctual, and cheap mode of collection. Suitable officers of a bank might have performed all the duties of entering and clearing vessels, and all other duties pertaining to the custom-house, without any charge to the public: the deposits of the public moneys, so collected in those banks, upon which the usual banking operations might be carried on, yielding an adequate compensation for all the services so performed. The public revenues, when collected, must also be safely kept. And experience has demonstrated, that, of all depositories, banks are the safest. And the same experience has shown, that, as the public moneys are required to be frequently transferred, for the public expenditures, from one State to another, the Bank of the United States, with its branches, has furnished the best mode[§] of transfer; it being effected with despatch, with certainty, and without any risk or expense to the United States.

The gentleman from Kentucky (Mr. Clay) asked, if banks are necessary for collecting the public revenues, why give them any other power? The answer is, that it is the essential

§ No other mode was ever considered or tested ! A private Navy was never considered, why a private bank ?

nature of banks which renders them so peculiarly fit to collect the revenues. The merchants, whose bonds are lodged in the banks for collection, are also borrowers of money from the banks; and if they fail of paying their bonds as they become due, their credit will fail; they can obtain no more loans until their bonds are paid. This has been presented to our view, in the most striking manner, by my colleague.

"To borrow money," is another of the great powers expressly vested in Congress. And in this, as in the power first considered, no mode of borrowing being prescribed in the constitution, Congress are to devise and provide the means in their judgment most sure, expeditious, and ample, to obtain loans.^{\$} And this was one of the great objects for which the Bank of the United States was originally incorporated. The gentleman from Virginia, near me, (Mr. Brent) and the gentleman from South Carolina, (Mr. Taylor) have, in very forcible language, displayed the impolicy of depending on State banks, or individuals, for loans, in public emergencies. At such times, these banks and individuals may be most hardly pressed by their usual customers. To suffer the Bank of the United States to dissolve, and to have recourse to State banks, will be so far going back to the condition of the United States under the articles of confederation; when our Union was but a rope of sand. When the pressure of the Revolutionary war was over, indeed, while that pressure remained, Congress in vain made requisitions on the individual States; no money, or none in any measure adequate to the public exigencies, could be obtained. After the war, when the public treasury was empty, Congress importuned, implored the States, individually, to grant the power to raise a revenue from commerce, to defray the current expenses of the General Government, and to fulfil the public obligations; but the power could not be obtained. States, deriving large revenues from commerce, chose to retain them for their own treasuries.

It was this helpless, forlorn condition of our country, which forcibly convinced the nation of the necessity of

^{\$} Once again; no other mode of borrowing was considered or tested !

forming a new system of Government; and our present Government was the fruit of that necessity.

"To regulate commerce," is a third great power vested in Congress. And it is conceived, that the exercise of any power well adapted to give safety, facility, and prosperity, to commerce, must be comprised in the power to regulate it. Hence the erecting of light-houses has been mentioned as an instance in which an implied power, incidental to the regulating of commerce, has been exercised. But it has been said, that this power is expressly given, in another part of the constitution; that by which Congress is vested with exclusive legislation over the district which is the seat of Government, and over places ceded to the United States, "for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." But if we had no commerce, no navigation, light houses would not be "needful buildings;" they would be of no use whatever. Hence, it is clear, that they have a direct relation to commerce, and to nothing else; and, therefore, the erecting of them is properly adduced as an instance of the exercise of a power implied in the general express power to regulate commerce.

The safety and facility of commercial operations, was also greatly to be promoted, by means of a general currency, which should have equal credit throughout the Union. This has been accomplished by the notes issued from the Bank of the United States, under the authority of Congress, exercising the power incidental to that of regulating commerce.

A fourth great power which I mentioned to have been vested in Congress, is that of "making all needful rules and regulations respecting the territory and other property of the United States." This "other property" consists partly of money. And, as Congress have power to make any regulations concerning it which are needful, that is, which may, in their opinion, best promote the general welfare; this money may be (as some of it has been) vested in bank stock; and, with the truest regard to its safety and good management, in the stock of a bank erected by Congress, of which they may have a suitable inspection; and where it may safely deposite the public revenues, there to await the public demand; and, in the

mean time, usefully aid those banking operations which give facility to commerce and to public loans.

But, as an evidence that the constitutionality of the act to incorporate the Bank of the United States was at least doubtful, we have been told by the gentleman from Maryland, (Mr. Smith) that President Washington doubted; that his mind was in suspense to the last moment, when the act was to be approved or disapproved. That, while the then Secretary of the Treasury, (Mr. Hamilton) a very great man, maintained the constitutional power of Congress to erect that bank, another man, (Mr. Jefferson) equally great, then Secretary of State, and the Attorney General, (Mr. Randolph) a distinguished lawyer, maintained the contrary doctrine, that Congress had not that power. It is true, sir, that Washington, cautious and circumspect beyond any man I ever knew, did suspend his decision to the last day allowed him by the constitution. The confidence with which the Secretary of State and Attorney General supported their opinions on this question, was sufficient to excite in the President the greatest caution. Both were lawyers, and they raised many legal objections. The written opinions of these gentlemen were (as I have been well informed) put into the hands of the Secretary of the Treasury, two days before it was necessary for the President to decide. And the reasoning of Mr. Hamilton, in his written argument, enabled the President to decide with satisfaction, with a full conviction of the constitutionality of the act.^{\$}

The following are some of the objections offered by the Secretary of State: He said "that the proposed incorporation (of the bank) undertakes to create certain capacities, properties, or attributes, which are against the laws of alienage, descents, escheat and forfeiture, distribution and monopoly. And that nothing but a necessity, invincible by other means, can justify such a prostration of laws, which constitute the pillars of our whole system of jurisprudence, and are the foundation laws of the State Governments." Washington, sir, was not a lawyer. And who can wonder that

^{\$} Even if the story were true, it was NOT considered whether an independent central bank is a good, or best, mode for the purpose ---whatever the alleged purpose was ! Only promoters of money-corporations were consulted.

his fair mind was alarmed by such a solemn declaration? That it was kept in suspense by the assertion, that the act for establishing the bank would overturn the pillars of our whole system of jurisprudence, and the foundation laws of the State Governments? But, sir, it required only the knowledge of a lawyer, at once to overturn these objections. The following are some of the remarks of the Secretary of the Treasury: "If (says he) these are truly the foundation laws of the several States, then have most of them subverted their own foundations. For there is scarcely one of them which has not, since the establishment of its particular constitution, made material alterations in some of those branches of its jurisprudence, especially the law of descents. But it is not conceived how any thing can be called the fundamental law of a State Government, which is not established in its constitution, unalterable by its ordinary Legislature."

"To erect a corporation, is to substitute a legal or artificial for a natural person; and, where a number are concerned, to give them individuality. To that legal or artificial person, once created, the common law of every State, of itself annexes all those incidents and attributes which are represented as a prostration of the main pillars of their jurisprudence. It is certainly not accurate to say, that the erection of a corporation is against those different heads of the State laws; because it is rather to create a kind of person, or entity, to which they are inapplicable, and to which the general rule of those laws assigns a different regimen. The laws of alienage cannot apply to an artificial person, because it can have no country. Those of descent cannot apply to it, because it can have no heirs. Those of escheat are foreign from it, for the same reason. Those of forfeiture, because it cannot commit a crime. Those of distribution, because, though it may be dissolved, it cannot die."

Sir, I beg leave to add a few explanations. By the laws of most, perhaps of all the States, aliens are not permitted to hold real estate; but, in all, they are free to hold personal property of every kind, and particularly bank stock. The law of escheat relates to the property of a citizen who dies without heirs, near or remote, and without a will. In such case, his

property falls to the State. But instances of escheat do not occur perhaps twice in a century, in any State; and consequently, is of trifling moment. Although a corporation cannot commit a crime, it may violate the rules prescribed in the law for its establishment; and thus incur an immediate forfeiture of its charter. Or, if, for such a violation of its fundamental law, or any mismanagement of the institution to the public injury, its charter be not forthwith taken away, the State may refuse to renew it. As to the law of distribution, that operates when a person dies intestate. But, though a corporation cannot die, yet the individuals to whom its property belongs, will die; and their bank property, equally with their other property, becomes liable to the law of distribution.

One gentleman has imagined, that, if Congress have, and exercise the power of erecting corporations, it will operate as a monopoly; and may, in the end, destroy all the powers belonging to the individual States. But there is here no ground for alarm. The act of Congress which established the Bank of the United States, did not, and could not affect the rights of the States to erect banks. Accordingly, we have seen, after the Bank of the United States had been erected, and the profitable operations of banks to their proprietors were known, that State banks sprang up in abundance. It has been said, by more than one gentleman, that the greater portion (as far at least as seven-tenths of the whole) of the stock of the United States' Bank being owned by foreigners, and these chiefly Englishmen, there is danger of a foreign influence in the country, and that such an influence has been manifest. This, sir, appears to be an extraordinary remark. In what has this influence been manifested? Has the Government, have individuals, been in any degree restrained in the expression of their resentments against Great Britain? Or, in adopting any measure deemed advisable towards that country?

One of the injurious consequences of destroying the Bank of the United States, has been stated to be, the withdrawing of seven millions of dollars from the active capital of the United States, and transmitting it to Europe, where that portion of the bank stock is owned. To this, it has been answered by the

opposers of the bank, that these millions will not be withdrawn, but transferred from the United States' Bank, to banks of the several States. How, then, sir, shall we get rid of that dangerous influence of foreign stock holders, which the same gentlemen urge as a reason for not renewing the charter of the Bank of the United States? Sir, it is well known, that money in Europe is less valuable than in the United States; that moneyed men there, are glad to loan their money at an interest of five per cent., or less; while in these States, the legal interest is six per cent. And a multitude of our citizens find their account in employing that foreign capital, paying an interest of six per cent., by which, in the course of trade, they gain ten, fifteen, or twenty per cent.; that foreign capital, in the hands of our merchants, has resembled the five and the ten talents, wherewith they have gained other five and other ten talents.

The distresses which will follow the dissolution of the Bank of the United States, especially in the great commercial cities, have been forcibly described in the plain testimonies of the committee of mechanics and manufacturers from Philadelphia ---a committee selected wholly from the democratic party; distresses which were sufficient to move a heart of stone. And why should this bank be dissolved? It has been said that the State banks are competent to all the necessary operations of the general bank. If the contrary had not been shown, it might be answered, that the Bank of the United States was incorporated when there were only three banks in the United States ---one in Philadelphia, one in New York, and one in Boston. These were inadequate to the necessities and accommodation of the General Government, and of the citizens. To supply this deficiency, it was necessary to erect the national bank; and the dignity, honor, good faith, and credit of the United States, stand pledged for the renewal of its charter. The institution having been well conducted, and found in the highest degree useful and beneficial to Government, and to the citizens at large, it ought to be continued. Individual citizens and foreigners became stockholders, on a well grounded expectation of the stability of the Government. It was in this just expectation that foreigners.

Englishmen, purchased of our Government itself, its remaining shares of the public stock in the Bank of the United States, and at an advance of forty-five per cent. so that for every hundred dollars laid out by the Government in the purchase of bank shares, the United States received of these foreigners one hundred and forty-five dollars. And how was it possible for these foreigners to conceive the Government capable of destroying the work of its own hands, and of reducing their property to one hundred dollars a share, for which, but eight years before, they had paid the same Government one hundred and forty-five dollars ?

In limiting the duration of the charters of banks to twenty years, no wise Government ever contemplated their destruction at the end of that term. Known to be useful institutions, the proprietors have well founded claims to their continuance; which the public good also requires. But, in the course of twenty years some inconveniences may be experienced, which ought to be remedied, and some improvements discovered which ought to be adopted. Besides, being profitable to the proprietors, they can well afford, once in 20 years, to give to the Government considerable sums of money in acknowledgment for the benefits derived from the acts of incorporation.

But, sir, in respect to the English stockholders in the Bank of the United States (and the foreign stockholders are chiefly Englishmen) we are under special obligation, by the treaty with Great Britain, in 1794. The tenth article being permanent, is still in force, and in these words:

“Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor moneys which they may have in the public funds, or in public or private banks, shall ever, in any event of war or national differences, be sequestered, or confiscated, it being unjust and impolitic that debts and engagements contracted and made by individuals, having confidence in each other and in their respective Governments, should ever be destroyed or impaired by national authority, on account of national differences and discontents.”

Sir, this is the very time when the equitable obligation of this treaty (and as a matter entitled to consideration in equity I introduce it) applies with force. We now have national differences with Great Britain, and a stock of discontents

sufficiently strong and extensive. By "destroying" the Bank of the United States (and to refuse to renew its charter is to destroy it) we essentially "impair" the "engagements," not of individuals only, of the one nation with individuals of the other, but the "engagements" of our Government itself with some of those individuals.

When the Barings purchased^{\$} of our Government two thousand and two hundred and twenty shares of stock in the Bank of the United States, for which they paid one million two hundred and eighty-seven thousand and six hundred dollars, would they have made the purchase if the Government intimated its intention to destroy the bank in eight years ? No sir. By the dissolution of the bank, the stock so purchased being reduced from 145 to 100 dollars in value for each share, a difference is made to the Barings of three hundred and ninety-nine thousand and six hundred dollars, which they lose.

Sir, I have no personal interest in the Bank of the United States. I am no stockholder. I have not the means of being one. Nor is the branch at Boston of equal import to the citizens of Massachusetts, with the bank itself and its branches to the inhabitants and commercial cities of other States; although the withdrawing of seven or eight hundred thousand dollars from the banking capital at Boston, would undoubtedly produce some serious inconveniences. But, sir, I consider the Bank of the United States, with its branches, of immense importance to the citizens of the United States, and a necessary instrument in the hands of the Government, in the management of our great national concerns. I shall, therefore, give my vote for the renewal of the charter.

MR. BRENT. Mr. President: Having been prevented from finishing the remarks which I had intended to make, on the subject under discussion, when I last had the honor to address this body, from the late hour of the day to which it was detained, I will avail myself of this

^{\$} American citizens would have been just as willing to buy the shares and pay the premium that the market determined; but the Secretary of the Treasury (Gallatin) only made offer to Baring & co.

opportunity to make a few desultory observations, which the want of time prevented me from heretofore submitting to your consideration.*

I formerly remarked that many gentlemen had avowed that the principal cause that induced them to vote against this bill was the large portion of the stock of the Bank of the United States which was held by foreigners, which caused a foreign influence to exist in this country, which was incompatible with its safety, and that, after the termination of this bank, they were willing to join in the creation of another, in which our own citizens only would be interested. I insisted that, if it was desirable to get rid of foreign stockholders, (which I did not believe) this could not be effected by the destruction of that bank, for the reasons I then had the honor to suggest. I will here add one or more additional reasons why I entertain this opinion. If foreigners can employ their capital here to greater advantage than in their own country, it will be impossible to prevent them from subscribing to the shares of the new bank you create. If you propose to do so by prohibiting them from being stockholders, the law will be avoided by the subscription being made in the name of our own citizens, who will hold it for foreigners, or even if the shares should be wholly taken by our citizens they would after wards sell to foreigners so that the same foreign influence exists, (if such is the effect of stock being held by foreigners.) Nor, sir, is this apprehended foreign influence in any degree diminished if this bank is destroyed and a new bank should not be created. In such a state of things those foreigners, who, if there existed a Bank of the United States, would have invested their money in its stock, now invest the same quantity of money in the State banks. Of course the same extent of foreign influence (as far as foreigners holding our stock produces this result) in either state of things exists. This reasoning, Mr. President, is addressed to those only who are so very apprehensive of the dangerous influence which the investment of foreign capital here produces. For myself I entertain no such fears; and for the reasons I have heretofore had the honor of stating, do very much question whether it is not most advantageous that foreigners should hold extensively the stock of our banks.

Some gentlemen are anxious for the dissolution of the bank, because they are of opinion that banks of every kind, and under every modification, are injurious. Perhaps they may be so. But does the destruction of this bank remove or diminish the evil society is to suffer from the existence of banks? If this bank is dissolved, the State banks will exist, and new ones be created to fill up the vacuum of bank circulating paper which is produced by the dissolution of this bank. If the community is to be oppressed with such institutions as banks &c; to the same extent, whether or not there exists a national bank, is it not

* You aired your lawyerly vindication for 25 pages of small print ! What more do you want to hear yourself talk ?

better to have a national bank than to put the Government to the necessity of carrying on its fiscal arrangements by the co-operation of State banks, which are in no respect under its control ?

Among other reasons urged by the honorable gentleman from Maryland why there would be no inconvenience attending the dissolution of the Bank of the United States, indeed why there would almost be an advantage from such a measure he insists there is at this time about 20,000,000 of dollars due our merchants from those of England; and such was the deranged state of the commercial resources in that country, that our merchants could not now obtain payment of their British debts; but that, on the dissolution of the Bank of the United States, this seven millions of stock, which was held by foreigners, would be applied in part payment to our merchants, of the debt due to them from the British; so that this money would not go out of the country, but would be immediately paid to our merchants and go to that extent in the increase of their resources.

Now, Mr. President, it appears to me, notwithstanding the high respect I entertain for the honorable gentleman's mercantile and political knowledge, that, in this instance, his opinion is not accurate. Either the British merchants that are indebted to ours are solvent, or otherwise. If the first, they can pay our merchants the \$20,000,000 they owe them, in the present state of things; if they are not solvent, is it to be believed that the stockholders, after receiving money from the bank to the amount of their stock, will, with this money, purchase bills which will be protested for non-payment? For such must be the result, if the British merchant is not, at present, able to pay his debts to our merchant. To me it seems most probable that, on the dissolution of the bank, one of two events will take place. Either the seven millions, the amount of foreign stock, will be invested in our State banks, or it will be remitted to Europe in actual specie. If it should be invested in our State banks, the same extent of foreign influence remains in our country which we are so anxious to get rid of ---and, so far as relates to this difficulty, the dissolution of the present bank has no operation. If these seven millions are not invested in State bank stock, and good bills cannot be obtained to transmit it, as is clearly deducible from the statement of the gentleman from Maryland, then it must go in actual specie. An honorable gentleman from Massachusetts, of great and unquestionable mercantile information, has supposed there is not in the United States more than ten millions of dollars in specie. If, by the dissolution of the bank, seven of these ten millions are to be exported from our country, will it not be attended with serious consequences, more especially, since it has already been discovered that the quantity of the precious metals in the United States has, for some years past, been diminishing, to such an extent, that it has been thought by several, important [...] that Congress should take some steps to guard against

the continuance of this evil? Another reason which might induce the holders of this stock, when the amount is paid off, to transport the specie instead of purchasing bills, is the great and increasing difference in value between the actual value of the same nominal amount of paper and specie in England. In the remarks which I heretofore had the honor to submit to the Senate, I suggested that it was more than probable that the dissolution of the Bank of the United States might seriously affect our revenue. In addition to the reasons then insisted on as leading to this conclusion, permit me, Mr. President, to remark, that if, at the same moment you diminish the circulating medium of the nation, (which, to a certain extent, is effected by destroying the Bank of the United States) and call upon your merchants immediately to pay fourteen millions of dollars, the amount of the debt they owe the banks, and, at the same time, to pay twelve millions to the Government, which is the amount of the bonded revenue, at a period when our commerce has been struggling for many years with the accumulated difficulties produced by spoliations, by embargo, and non-intercourse laws ---I say, Mr. President, under such circumstances, is it unreasonable to entertain some apprehension that our merchants, finding themselves unable to surmount all the difficulties with which they are surrounded, will, in their choice of difficulties, pursue the common dictates of prudence, and, choose the least? Is it not probable that they will, in the first instance, take every step to secure their bank endorsers, by settling their debts with the bank, and leave the Government to bring suit on their revenue bonds? Such an event is the more to be deprecated, as this is, of all others, a period when we should be cautious about adopting any measure which would diminish the receipts of our treasury, already much curtailed by our late embargo, and which will be consider ably affected by our non-importation law.

The remark I made some days past, in relation to a supposed incapacity of the Bank of Virginia to the wants of the country, was, that it had been suggested to me that it had produced in Richmond a great deal of usury, or, as it is commonly called, money shaving. In making this observation, Mr. President, it was not my intention to reflect, in the most distant manner, on the president, or any of the directors of that bank. I know not the name of any one gentleman in the direction. For all that I know or have heard, the affairs of that bank are as ably and as honorably conducted as those of any bank in the United States, or elsewhere. The fact which I stated was one which I suppose to be an unavoidable result when you go into the banking system, and do not create a banking capital adequate to the wants of society. If you establish a bank with an adequate capital, favorites go into the bank, get the money out of it, and apply it to usurious purposes; it is no reflection on a bank, to say that it has its favorites. When more applications are made, or more good paper offered than can be accommodated, a

selection must be made, and some applicants remain unaccommodated, who will be compelled to give usurious interest to those who have been accommodated for the very money which this accommodation has supplied them with. My honorable colleague is of opinion that the bank of Richmond has a capital of sufficient extent, and that all who deserve accommodations there can obtain them. I can only say that I have repeatedly heard a very different statement, in Richmond and elsewhere. Another fact, too, I beg leave to mention. I am well acquainted with a very intelligent officer of the branch bank at Petersburg, who has informed me that, almost always, more good paper is offered to the board of directors than could be accommodated, from the limited extent of their banking capital; and it would seem an extraordinary phenomenon, that, when Richmond and Petersburg are only twenty-five miles distant, there should be a redundancy of banking capital at the former, and such a deficiency at this latter.

I now, Mr. President, approach the discussion of a question which excites with me more sensibility than is produced by any considerations connected with the subject now deliberated on. It is principally with a view to investigate this delicate and interesting question that I have been induced at the present hour to solicit the attention of this honorable body. We are told that this question concerning the re-chartering of the Bank of the United States is a party question, and, from the vociferous and earnest reiteration of this assertion, it is evident that this invidious inference is intended to be derived from it, to wit: that, at the first establishment of the Bank of the United States, it was contested on constitutional grounds; and that its favorers or its opposers marked the federal or republican character, and designated the individuals who formed the body of these two great political sects; that the same characteristic adheres to the bill now before us, and that such of those who have heretofore been considered as appertaining to the republican party, as give give their sanction to this bill, must hereafter be considered as apostatizing from that political sect with which they have heretofore been arranged. I will first inquire into the justice of this assertion, as it relates to the matter of fact, at the first establishment of the Bank of the United States; and next, as to the honorable and generous inference which these magnanimous asserters attempt to derive from it.

[Mr. Smith wholly denied that he had ever called this a party question, or viewed it in this light.]

Mr. Brent said that he had never heard the honorable gentleman make such an assertion, but he had been informed it was attributed to him. The honorable gentleman's declaration is, however, perfectly satisfactory to me; I am satisfied that he is incapable of making so invidious and unfounded an accusation. I am too well acquainted with that honorable gentleman's good sense and liberality. He will therefore

be so good as not to consider any remarks I shall make on the particular question that I am now investigating as applying to him, but to others who act with him, as to the general and ultimate fate of the bill under consideration. That, among the great mass of the People in some sections of the Union, particularly the State I represent, this measure establishing the Bank of the United States, was taken up as a party question, may be admitted; but that it was viewed in this light in either House of that Congress which passed the law; that the votes which were given, either affirmatively or otherwise, were the test to ascertain who was of the republican and who of the federal party, is an assertion destitute of all foundation: for whoever will examine the yeas and nays of both Houses of Congress, will find some of our most distinguished republican patriots voting for the bill, while others, equally eminent and zealous in the federal ranks, will be found in hostility to it. Sir, the journals of Congress, testimony derived from solemn and unquestionable records a species of evidence which the laws of our country, and the practice of our courts, in the gradation of the different species of testimony, places in the highest station, and considers as of the most imposing authority demonstrate that the assertion, that the question concerning the establishment of the Bank of the United States, in the first instance, was entirely a party question, is destitute of all foundation. That an assertion so susceptible of refutation, by testimony so irresistible, should have been made, is evidence to me of the unjustifiable length to which some gentlemen will permit their zeal to transport them. Nay, Mr. President, let me call your attention to the only member, as I believe, of this honorable body, who was a member of Congress when the law establishing a Bank of the United States took place, (I mean the honorable Mr. Gilman.) This gentleman is known to be a republican; yet the journals will assure us, that he voted for the bill establishing the bank.

If the opinion of the constitutionality or otherwise of the Bank of the United States is the criterion by which the estimate is to be made of the political sect to which each individual belongs, what shall we say of Mr. Jefferson, and the majorities of the two Houses of Congress during his administration, who, by repeated acts, recognised the legality and constitutionality of this institution? Shall we say that he and they have apostatized from the republican cause? Do the presumptuous and daring asserters pretend to impose upon us a belief that, during a period which we have hitherto supposed was the proudest triumph of republicanism, those of the dominant party had apostatized from the republican cause? Are we to believe that, during the administration of Mr. Jefferson, the great apostle of republicanism, one with whose name republicanism has been supposed to be identified ---are we to believe that he has apostatized from his political party? Are there any so presumptuous as to imagine they can impose upon the public mind or

upon this honorable body so monstrous, so absurd a belief? Can you be induced to select that moment which has hitherto been imagined most auspicious to republican principles, as the one when, above all others, there was a total apostacy from them? No, sir, every effort is vain which is made to impose upon us so irrational a belief. On the contrary hand, we will account for the conduct of Mr. Jefferson, and the republican majorities in Congress, during his administration, when they sanctioned, by repeated laws, the constitutionality of the Bank of the United States, by the considerations I proceed to enumerate. Whatever might have been the abstract opinion of Mr. Jefferson respecting the constitutionality of the bank, on its first institution, it is now immaterial to inquire. He saw, when he came into the Presidency, that this was, in its origin, not a party question; but that the journals of Congress would evince that, on the vote which first gave a sanction to this measure, all party distinction was confounded; that it was one of those questions, which, when first agitated, was calculated to produce a diversity of opinion among men of the purest intentions and of the most luminous understandings; that it was one of those doubtful questions which, when once settled by precedent, should never again be agitated; that this measure had been sanctioned, after the fullest deliberation had been bestowed upon it; and that we had so incorporated this bank establishment with our fiscal and other governmental arrangements, that it could not, at that time, be put down without impairing the public credit, and without being like (in various other points of view) to be productive of very serious and numerous calamities to the community. From all those various considerations, Mr. Jefferson, when he came into the administration, as also a majority of Congress during that period, considered the question respecting the Bank of the United States as a settled and adjudicated one, which was now to be acquiesced in, and pursued a system of policy in conformity with this sentiment. On any other principle, the conduct of Mr. Jefferson and of Congress would not only not be justifiable, but would be criminal in the highest sense. If they had considered this a party question a measure which the federal party, during its ascendancy, had established, contrary to the manifest and unquestionable principles of the constitution, (as some gentlemen now contend) every step that was taken to sanction this unconstitutional measure was inflicting a new wound on the constitution, and a violation of the sacred oaths they had taken to support it. To say that it was done for the support of public faith, because the law incorporating the bank had made a contract with individuals, is irrational and fallacious, because no unconstitutional law can pledge the faith of Government. An unconstitutional law incorporating a body of men can give them no legal existence which can be binding on a subsequent legislature. It is, as was well observed by my colleague, to enter into a contract with an idiot or married

woman. The contract is, *ipso facto*, void. If an unconstitutional law cannot pledge the faith of Government or a subsequent legislature nay, more, if it is incumbent on a subsequent legislature to repeal such unconstitutional law; then the law establishing the Bank of the United States, if it is of this description, (that is, evidently unconstitutional) imposed no other obligation on Mr. Jefferson and his republican majority, than immediately to repeal it, and to restore to its original purity that constitution they had sworn to support; but when the very opposite conduct is pursued, we must presume it was done from an idea that the constitutionality of the bank, in its origin, was one of those questionable principles which might create doubt between individuals of all parties, and on which men of the best understanding might pause and hesitate; but being once determined on, was to be considered as an adjudicated case, which the repose of society made it proper should never again be drawn into discussion. This, sir, I think, is a justifiable inference. Are we not then warranted in saying, that the assertion that this is a party question, with all the bearings it is intended to have, is destitute of all foundation? That the law concerning the Bank of the United States was not, in its origin, a party question, is demonstrated by the journals of Congress. Whenever this measure was agitated, during the administration of Mr. Jefferson, it was not taken up as a party question, because all parties gave it their concurrent support. It remains to be inquired whether, on the present occasion, the bill under your consideration is to be viewed as a party question. In order to ascertain the character of a question, that is, whether it is a party one or not, it is first necessary to ascertain who are the different individuals that constitute the different parties, and how these individuals stand in relation to the question to be decided on. If all, or almost all of each political sect are arranged, one for, the other against, the measure, then it may be deemed a party question; but if a very large portion of one of your political parties, carrying with it some of your most distinguished members, is found opposed to another portion of its own party, you can no longer call this a party question.

Each portion of this divided party may claim its exclusive identification with the party itself, and upbraid the other with the epithet of apostate; but their pretensions will not be admitted unless supported by higher authority than that which is derived from the arrogance of one section of this divided party. When I view the journals of the House of Representatives, and cast my eyes over the yeas and nays on this question, as decided there some days past, and find some of the most zealous and distinguished republicans in the affirmative; when I reflect on the number and great weight of character of the republican members of this honorable body, who concur with me in opinion that it is proper the reincorporation of the bank should prevail; I consider it as the height of arrogance, and the most baseless of all

unfounded pretensions, in those of the republican party who are opposed to this measure, to call this a party question; to identify themselves exclusively with the republican party; and to insinuate that such republicans as vote for this bill have abandoned their political principles. By what authority can those republican gentlemen, who oppose this bill, appropriate exclusively to themselves the character of republicans? Are there not, among those of the republicans who are in favor of this measure, men of as great weight of character as those who are opposed to them? Men, who can offer as distinguished and as proud and elevated pretensions for the zeal, the diligence, the fidelity, and the fortitude they displayed in the republican cause, during the period of its adversity, as any this country contains? Who, sir, in the hour of difficulty, at that period which tried men's souls when republicanism meant more than a name, and its advocates were stigmatised as factious demagogues, and upraised with every odious epithet who, sir, at this inauspicious moment, occupied a more eminent and distinguished station in the republican ranks, than the present Secretary of the Treasury, who is the first to recommend this measure? And is Albert Gallatin, one of those who pre-eminently contributed to form the Atlas, on whose shoulders the fate of republicanism rested, at the moment when it was surrounded with such numerous and ferocious assailants ---is he not a re publican? Nay, Mr. President, are there none in this body of the veteran politicians who contributed to form that Spartan band who so nobly defended the republican cause when it exposed its advocates to every species of obloquy and political persecution ---are there none of that description in this body that mean to vote for this bill? It will with justice not be denied. Mr. President, who are the characters who have proclaimed this to be a party question? Does my colleague, who was inferior in zeal and efficiency to no one in the councils of our country, at the awful crisis I have been speaking of ---does he call this a party question? Does the honorable gentleman from Maryland, who also bore his share in the honorable conflict for republican principles ---does he call this a party question? No, sir; they each know the reverse, and are too honorable and just to make such an insinuation. It is not, sir, from those political veterans, whose standing might justify them for making some pretension, that this exclusive claim to republicanism is insisted on, both within and without our doors. It is made by characters, that, at the period of republican adversity, were not known in the councils of our nation, or were, perhaps, in most instances, boys at school. And are these unfledged, fair-weather politicians, in these halcyon days of republicanism, to attribute to themselves the exclusive monopoly of republican principles, and stigmatize as apostates those veteran politicians to whose persecutions and exertions the triumph and preservation of republican principles can alone be attributed? These, sir, are modest

pretensions, and the public will duly appreciate them when they learn the source from whence they come, and the characters to whom they are to be applied. If to be of an opinion that there is a constitutional power in the General Government to establish a national bank, is an apostacy from the republican cause, then Mr. Jefferson and the two houses of Congress during his administration, who considered this a settled and an adjudicated point, and, in repeated instances, legislated on this principle, and passed laws recognizing the constitutionality of such an institution then, sir, I say, Mr. Jefferson, and the majority of the two houses of Congress, during his administration, have apostatized, as also has Albert Gallatin, who, relying on the score of precedent, has considered this as an adjudicated question, and, in his report, recommended its adoption ---he also has apostatized from the republican party.

Mr. President, I remember to have heard an instance mentioned, when a gloomy and ferocious fanatic was pronouncing eternal damnation on all who died without the pale of his church, that a more benevolent and liberal person, who heard him, in order to obviate such monstrous doctrine, enumerated a great many of the most amiable of their common acquaintance, and even relatives, whom the hand of death had taken from them, that were not of the same religious tenets with this fanatic, and interrogated him what had become of each of these amiable and dear friends and relations? The fanatic replied, they were all in hell; to which the interrogator rejoined, that he also would go to hell, for he was sure, if the information he had just received was true, he should find better company there than in any other region he could repair to. With the same desire to get into good company, if Mr. Jefferson, and the majorities of Congress during his administration, and Albert Gallatin, have apostatized from the republican party, I also am content to be an apostate. I am sure I know of no political sect that have manifested opinions so congenial with my own as they have done, and with them I wish to be associated.

Mr. President, I will beg leave to remind these new-born, unknown, self-created, exclusive republicans, who hurl apostacy and other denunciation with such liberality against all that will vote for this bill, that many of their own party, many of those who vote with them avow a belief, that Congress has the power to create a bank, but they do not think it expedient at present to recharter this bank. I understand the honorable member from Maryland has candidly and honorably avowed this opinion; many others are known to entertain the same sentiments (though they will not acknowledge them with the same candor) who have and will vote against this bill. To those who entertain this sentiment, how can this be a party question? The only incident which gives it the character of a party question is, the opinion that such a law is constitutional or otherwise; and a determination to vote in the

affirmative or negative, as that opinion shall dictate. Now, to such gentlemen as believe the law constitutional, and yet vote against it, it cannot be a party question. Those who are in this situation, and endeavor to overthrow the bill by the prejudices they may create against it, by affecting to call it a party question, though secretly, and in their own minds, they entertain no such belief ---such gentlemen, Mr. President, as act in this manner, fight under false colors.

Mr. President, it is painful for any gentleman, when addressing this House, to speak of himself, and to make his past political conduct the theme of his observations; but, in an instance like this, when insinuations are made, so calculated to excite the most poignant sensibility; when a charge of inconsistency and dereliction of former political principles is made; it is pardonable to take a review of our past political conduct, for the purpose of repelling charges which create emotions proportioned to the ardor and fidelity with which we are conscious of cherishing those principles which we are accused of having abandoned. During the most arduous conflicts of the republican party, at a time when it was borne down by domineering and tyrannical majorities, although I occupied no prominent station, it certainly was not my fortune to repose upon a bed of roses. It was at this most inauspicious period, as it respected the fortune of the party to which I was attached, that I first acquired a seat in the other branch of the National Legislature. The four years during which I retained it may be considered as the very time when, above any other, party intolerance was carried to the greatest excess; when a republican was almost hunted down in the streets of Philadelphia, where Congress then sat; when the republican members were reduced, in Congress, on great and critical questions which served most precisely to designate the two parties, to a very inconsiderable body; when, to be called a republican, was, in the estimation of the dominant party, to promulgate outlawry against you in the code of humanity, and to cut you off from almost all the charities of life. At this period, sir, it was my fortune to represent the only federal district in the State of Virginia (and to be the only republican representative that this district, either before or after, elected to Congress.) It was my fortune to receive, during this adverse and tempestuous period, almost innumerable addresses from my constituents, which I was made the organ to present to the President of the United States, stigmatizing with the severest animadversions my political conduct, and that of the party with which I thought and acted. Let the journals of the House of Representatives, during this alarming and eventful crisis, be examined, and let the recorded votes of that body be resorted to, in order to ascertain whether I was inferior in promptitude, fidelity, and ardor, for the republican cause, to any member of that republican party. During the whole of this period, I was suffering under the most painful state of ill health; yet, such was my

anxiety to show my disapprobation of the ruinous measures pursued by the then dominant and infatuated party, that I occupied my seat in Congress in very many instances when, if I had attended to my own ease and health, I should have confined myself to the bed; and I challenge the most minute and accurate investigator to point out one instance where any measures were taken in Congress, calculated to interest party feeling, when I was absent from my post, or failed to attest, by my vote, the sincerity of my devotion to the republican cause. Under these circumstances, I had flattered myself that I had some humble pretensions to the public confidence, when I professed my early and continued devotion to the principles of republicanism; but I discover that I am mistaken, and that a new order of fortunate politicians have come into existence, in the present propitious hours of republicanism, and have so exclusively engrossed the whole of this precious commodity, that they will not permit their elder order of political men, to whose exertions it is indebted for its very existence, to have one particle of it. If this new created order of patriots will banish me, and all who think with me on this occasion, from the republican ranks, they cannot deprive us of this consolation, that, in the state of exile and denunciation, they place us in company at least as respectable as that from which we are driven. If, to be associated in the same political class with the late President, with the majorities of Congress during his administration, and with the Secretary of the Treasury, in contradistinction to this new order of exclusive republicans, is the result of these denunciations, I am willing to encounter their consequences.

Mr. President, if I, and those of the republican party who act with me, on the present occasion, have apostatized from our former political principles, I can say with truth, so far as the charge respects myself, that the motive by which I am actuated, must not only be disinterested, but very different from that which generally operates on the human mind. In the most gloomy hour of republican adversity, during the severest denunciations and persecutions which it experienced at an hour when our political hemisphere was pregnant with a tempest which threatened destruction to all its votaries; when I represented the only federal district in the State of Virginia, and my constituents were constantly sending on loyal addresses, in the most pointed manner, animadverting on the party with whom I was associated; under all these adverse circumstances, I was not inferior to any one, in fidelity and zeal for the republican cause. But at this period of republican triumph, when, to be associated with that party, is the best passport to all the honors and offices of our country, when I am elected to a seat in this very elevated and honorable body by the vote of a republican Legislature, of one of the most uniformly and unanimously republican States in the Union; in such a crisis, and in such a state of things, I have

abandoned the republican party! If the charge be just, I can only repeat, that I must be actuated by motives very different from those which generally operate on the human bosom. No consideration of pecuniary aggrandizement could have had any operation on me in relation to the subject under consideration; any other than a wish to advance the general happiness of society: for, I never had a bank share in any bank whatever, nor have I ever had any negotiation with, or requested or obtained a loan for one penny from the Bank of the United States, or any of its branches. I must here remark, if this abandonment and tergiversation of political principles is justly attributable to me, I am not conscious of the motive which produced it. Whether I shall be considered faithful to republican principles, my country must determine and to this tribunal I cheerfully appeal; but whether, in the vote I am about to give, I shall evince uniformity of political principles, is not a question that I will submit as a matter of doubt, for the decision of any one. It is a matter of fact, susceptible of immediate and conclusive demonstration. The first time I was a candidate for a seat in the House of Representatives, a gentleman who was a competitor with me for that station, published a lengthy address to the freeholders of the district, which we each wished to represent, which was, in some measure, a profession of political faith, and seemed to call on me to make public a similar exposition of my political sentiments. The question concerning the Bank of the United States was then a topic more generally adverted to than it has been for some years past; it was of course dilated on in the address of my competitor, which imposed an obligation on me to express my sentiments on this subject, in the answer which I published to this address. I have no copy of my answer in my possession, nor have I seen it for several years; but I have no doubt but some copies of it are to be found, and, if they can be found, it will be seen that I therein waive all considerations respecting the original constitutionality of the bank, and, after making some remarks respecting it, which I do not now recollect, conclude with observing, that, however inexpedient at first, it cannot now be touched without impairing public credit, and shaking our constitution to its base. These, I think, are the very words used in my answer. Thus, sir, recorded evidence may be produced, that, in the very first act of my political life, (as relates to the General Government) on the first promulgation of my political sentiments, when I was a very young man, I avowed the sentiments I now profess, and in conformity with which, I now act. If I was a republican at the time I published this answer; if the sentiments it contained consigned me in the public estimation to the republican party; if I acted, and shall act, in my political career, in conformity to these sentiments; I have some latent suspicions that I should have some pretensions to the character of a republican, if it were not discovered that a new order of patriots has lately arisen, which has exclusively appropriated to itself

every republican attribute, and will not permit any of its benign influence to animate the bosoms of those who have preceded them in the theatre of public life, though it is exclusively owing to the exertions of the latter that its genial and hallowed flame has not been entirely extinguished. From the exposition I have just made, whatever may be the political sect with which I and many others of my more illustrious political associates are arrayed, I hope it will at least be admitted, that I have acted with consistency, and in conformity with my earliest professions. I am conscious of possessing but little political merit, and my anxiety to have credit for what little I do possess, is augmented from my consciousness of the scantiness of the general stock. When we possess but little, that little is our all, and its value is proportionally enhanced from this consideration. Consistency of political opinion, and steady adherence to those tenets with which I had commenced my political life, was one of those humble recommendations for public confidence, to which I flattered myself I could make some just pretensions; nor will the review I have just taken of the commencement and progress of my political life, diminish these pretensions. Whether this new order of exclusive republicans, who have made their appearance upon the theatre of public life more recently than it was my fortune to do, shall succeed in excluding from the republican ranks the late President of the United States, and the majority of Congress during his administration, as also the Secretary of the Treasury, and all the republican members of Congress who vote for the bill under consideration I say, Mr. President, whether this is effected or not, in either case, the charge of apostacy or dereliction of political principles cannot apply to me, because I now act in strict conformity with the profession of political faith which I made at the commencement of my public life, (in relation to the Government of the United States.) With whatever political sect I may be associated, in consequence of the affirmative vote I shall give to the bill now deliberated on, from the considerations already enumerated, I shall at least stand absolved from all imputations of inconsistency, insincerity, or apostacy. My candor cannot be impeached; I cannot be accused with advocating now a doctrine I once reprobated; nor of vibrating in my political opinions, with a vibrating state of things. Nor has any one a right to question the sincerity of the solemn declaration I now make, that I every day cherish with a fonder affection, my attachment to those just and leading political principles to which I was attached, and which I professed at the commencement of my political life, because every passing day's experience serves more firmly to convince me of their accuracy and superlative excellence; and that the preservation of those principles, in their utmost purity, is best calculated to preserve the liberty, and promote the general welfare of the nation.

Wednesday, February 20th, 1811.

[We have to regret the omission of two speeches in the course of the debate, which are wanting to make it perfectly complete--- that of Mr. WHITESIDE, the lowness of his voice rendered it impossible for the reporter to follow him, and that of Mr. ANDERSON, the copy of the report of which was mislaid before it was committed to the press ---both speeches in opposition to the renewal of the charter]

MR. CRAWFORD said he regretted extremely, that, at so late an hour, he was constrained to throw himself upon the indulgence of the Senate, especially as the subject was so much exhausted, by the able and animated discussions which had for so many days attracted their attention.

Before I enter upon the few remarks which I feel it my duty to make, in reply to the numerous comments which have been made upon the observations which I had the honor to submit to the consideration of the Senate, at the commencement of this discussion, permit me, sir, to acknowledge the liberality and indulgence with which those observations have been generally treated. In the course of the few observations to which I intend to confine myself, it shall be my endeavor to exercise that indulgence towards others, which has been extended to me.

The gentleman from Kentucky (Mr. Clay) complains of the committee, because they have listened to the representations of two delegations from the city of Philadelphia, who presented memorials to the Senate, who referred them to the committee; and, because the committee have, in his opinion, given adventitious importance to their representations, by the minuteness, and by the pomp and parade, with which they have been detailed to the Senate, will be recollected that the committee did not seek the post which has been assigned them by the Senate, nor did they desert it, after it was assigned to them. The object of referring petitions to committees is to collect mat in formation which the Senate ought to have, before it acts, and which, in its collective capacity, it cannot obtain. It has always been the practice of committees to permit the petitioners to be present at their meetings, to make such explanations, and to give such

information, touching the subject of their petition, as they think connected with it. It is the duty of committees to detail to the Senate, the information which they collect, to enable the members to take a full view of the subject upon which they are called upon to act. The committee, in the present case, has done all this, and it has done nothing more. Had it pursued a different course, it would have justly subjected itself to the animadversions of the Senate. To the information collected by the committee, from these delegations, and laid before the Senate, my friend from Maryland, (Mr. Smith) has opposed a statement of facts, and his opinion, founded upon those facts. As the situation and talents of that gentleman entitle his statements and opinions to great weight; as it is more than probable that the votes of several members will ultimately rest upon the weight of his authority; my honorable friend from Maryland (Mr. Smith) will pardon me if I should examine his observations rather according to me rules of evidence, than those of logic.

In making this declaration, I wish to be explicitly understood as excluding every idea of charging that gentleman with having made statements which he did not believe, or with having given opinions he did not entertain. I have no doubt but that he sincerely believes in the correctness of his statements, and in the accuracy of his opinions; but if, in the course of my observations, I shall prove, incontestibly, that he is mistaken in some of his statements and opinions, it will teach the Senate the necessity of weighing the remainder of them with great circumspection. If I shall be able to shew that he is mistaken in a case, the evidence of which is matter of record, that circumstance alone will induce the Senate to reject all idea of receiving his statements and opinions, with implicit confidence.

But, sir, before I proceed further in my observations, permit me to notice an expression which fell from the gentleman from Tennessee, on my right, (Mr. Whitesides.) I understood that gentleman to say, that those republicans who thought the law incorporating the bank was unconstitutional, had been guilty of apostacy. I hope I misunderstood the gentleman; if I am mistaken, it will afford me great pleasure to

be corrected, because the declaration made a very strong impression upon my mind, and excited the most unpleasant sensations.

[Mr. Whiteside explained. He said, an impression had been made upon his mind, that the bank charter was unconstitutional, but that he had never examined the subject minutely, until it had become his duty to do it. That that examination had convinced him that it was unconstitutional, and that those republicans who now supported the renewal must have apostatized.]

Then, sir, I say that this is language which no gentleman ought to use towards any member of this honorable body; and, sir, it is language which no gentleman shall, without the walls of the Senate, use to me, with impunity.

[Mr. Whiteside²³ explained, by saying, that he did not say that gentlemen had apostatized, but that he had only said, in his opinion they had apostatized.]

I wish the gentleman had been able to make a satisfactory explanation of his unwarrantable declaration. What right has he to make his opinion of the constitution the test of other men's republicanism? By what authority does he erect his opinion as the standard of republican orthodoxy? As the standard by which the republicanism of other gentlemen is to be tried? The gentleman has mistaken his standing in the republican party. I disclaim all authority, in a case of this kind, and more especially the authority of the gentleman from Tennessee.

Mr. President, the honorable gentleman from Maryland has declared, that the act incorporating the Bank of the United States was, in its origin, a party question.

[Mr. Smith explained. He did not say it was a party question, but that it had given rise to party.]

If I have mistaken what fell from the honorable gentleman from Maryland, I am not in what fell from the gentleman from Tennessee, on my right, (Mr. Whiteside). Sir, the assertion is not only without proof, but it is contradicted by matter of record. A reference to the yeas and nays upon the bill, in both

Houses of Congress, will prove that many of our most distinguished republicans voted for our bill, and some of the most respectable federal members voted against it. In the observations which I made, when I had the honor of addressing the Senate, at the opening of this discussion, I attempted to show, that the idea of party, as now known, did not then exist in the United States. That the parties then known were those who were the friends of the federal constitution, and those who were opposed to it. Nothing which I have heard advanced upon this subject, in reply to my observations, has made the slightest impression upon my mind, against the correctness of the opinion which I then advanced. I understood the gentleman from Maryland to say, that the Congress which passed the bill to incorporate the bank, was capriciously apportioned, and consisted of sixty-five members; and that, of that number, only thirty-nine voted for it. That, if the members had been apportioned as the constitution directs, upon the principles of population, in his opinion the bill never would have been passed. Sir, let us examine the correctness of this opinion. Every member present but one, from the States of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Delaware, voted for the bill, together with two from the State of Maryland, two from the State of North Carolina, and one from the State of South Carolina. The eight States who voted unanimously for the bank, one only excepted, upon the apportionment under the first enumeration, give a nett gain of twenty members, while the other few States, most of whom voted against the bank, give a nett gain of sixteen members. Thus, sir, if we may judge of the conduct of members in a geographical point of view, there can be no doubt that the friends of the bank would have been considerably increased by a correct apportionment. The vote in the House of Representatives, on the final passage of the bill, was thirty-nine to twenty. In the Senate, the yeas and nays were taken on two questions, during its pendency there. Upon the first, the yeas were sixteen; the nays six. Upon the motion to strike out the 12th section, which restrains the right of Congress to create any other bank during the existence of

that about to be created, the yeas were five, and the nays eighteen. The opinion, then, is wholly incorrect, and yet the evidence upon which this opinion ought to have been formed was matter of record.

Sir, the gentleman from Maryland has said that this bank has been mischievous in its consequences, and that, wherever it has established a branch, it has immediately produced a necessity for creating other banks. I would ask what has created the necessity of establishing banks in New Hampshire, Vermont, Rhode Island, Connecticut, New Jersey, Delaware, North Carolina, and the Western States? This bank has never established a branch bank in any one of these States, and yet they have, without, I believe, a single exception, established banks; while the State of Georgia, where a branch bank has been long established, has not, until within a few months past, established a single bank. What cause is it that has influenced the Legislatures of Maryland, Pennsylvania, and several other States, to create so many banks within a few months past? Is it owing to the mischievous effects of the Bank of the United States? Sir, the facts I have stated show, conclusively, that the cause assigned by my honorable friend from Maryland cannot be the one which has produced this multiplication of banks. Some other cause must be sought for, and, in my opinion, a more rational one is ready at hand. The effects of the bank, and of its branches, wherever established, upon the prosperity of the People, and of the commerce of the place, removed the long rooted objections which existed against banks, and hence their great increase in all the States.

The gentleman from Maryland has stated several cases in which the State banks, and the banks of this territory, have accommodated the Government, where the United States had refused. The cases stated prove nothing, and ought to have no influence with this Government, in establishing a permanent system of revenue. If the State and territorial banks have, upon several occasions, received the bills of other State banks, to accommodate the Government, it was because it suited their convenience at the time. It was a mere temporary transaction, and forms an exception to the general rule. The charter of no bank in the United States compels them to take

the paper of other banks; and whether they do receive it or not, will depend upon contingent circumstances, or upon whim and caprice. No reliance, therefore, ought to be placed upon the duration of any regulation which is not enforced by their charters. The gentleman from Maryland thinks that the United States will have the same influence over the State banks, that it has had, and will have, over that of the Bank of the United States. If he is correct as to the extent of that influence, his conclusion may be correctly drawn. But, sir, is it true that the National Government has no other influence over this bank than that which can be produced by withdrawing of its deposits? If it is so, then it must be admitted that the United States will have the same influence over the State banks that they will have over one of their own creation, because they can as easily withdraw their deposits from the one as the other. But, sir, the United States have an influence over the Bank of the United States, which is wholly independent of, and unconnected with, the right of withdrawing their deposits from its vaults. The bank is dependent on them for its existence. By renewing the charter for short periods of time, you create a state of dependency upon the Government, which will, at all times, make the bank completely subservient to all the legitimate objects for which it was created. How, sir, is it with the State banks? Upon whom are they dependent for legal existence, and for length of days? Upon the State Governments. Suppose the authority from which they derive their existence should place itself in opposition to the Government of the United States; and suppose that this state of hostility should happen a year or two before the time at which their charters were to expire, and the State Legislature should direct them to hold the deposit of public moneys against the demand of the National Government; what course would they pursue, under such circumstances?

Sir, the case which I have stated is not a mere possible case. The history of several of the large influential States proves, that, this state of hostility, which I have supposed, is not an imaginary one. Make yourselves dependent upon the State banks for the collection and transmission of your

revenue, and that opposition, which has but seldom happened, will become more frequent. Their disposition to control the operations of the National Government will increase with every increase of the means of annoyance, which the folly and improvidence of Congress may throw into their hands. For whose benefit, sir, is the Government to strip itself of this right, so essential for the due administration of its finances? Is it for the benefit of the great mass of the American People? No; not one in an hundred of them have any interest in the State banks. They feel no interest in the question; their true interest is more effectually subserved by the operations of the Bank of the United States, than it can possibly be by the State banks. This bank affords them a portable currency, which is of equal value in every part of the United States, while the credit and currency of the State bills is local.

Mr. President, the honorable gentleman from Maryland, [Mr. Smith] says that the Bank of the United States does not facilitate the collection of the revenue. If I understood the gentleman from Massachusetts (Mr. Lloyd) and the gentleman from Maryland correctly, human imagination cannot devise a system so peculiarly calculated to ensure the speedy collection of your revenue, as that which is furnished by banks.

Sir, I know nothing of the details of the banking system; I never was inside of a bank, except two or three times in the branch bank which has been established in this city; but I understood the gentleman from Massachusetts to say, that when a revenue bond, even of \$50, was deposited in the bank for collection, if it was not discharged when due, that the obligor was refused all further accommodation in that bank, and that, if his accommodations amounted to 100,000 dollars, he was called upon to discharge his notes as they became due, the right to renew them being forfeited by this act of default. I understood the gentleman from Maryland to say, that, whenever any person was known to be in default at any bank, that all the banks of the place immediately refused him credit, and demanded the payment of his notes as they became due, by excluding him from the right of renewing them.

[Both gentlemen assented to the correctness of the statement.]

I have then understood both gentlemen correctly. This simple statement proves, beyond the possibility of doubt, that the bank is the most powerful engine in the collection of your revenue, which human ingenuity can devise. Credit is the true basis of commerce. By placing your revenue bonds in the bank, the want of punctuality in a single case, towards the Government, shuts the door of every bank to which the defaulter had, before, had access, and also of every other bank of the city in which his commercial transactions have been carried on. And yet, we are seriously told that the operations of the bank have no influence upon the prompt and secure collection of the national revenue. It is impossible to resist the conviction, that the prompt and secure collection of our revenue is principally owing to the influence of the bank.

But, sir, the bank has another direct influence upon the collection of your revenue. By the rules established in the bank at Philadelphia, every person, whose bond to the Government is deposited there, has a right, upon getting an additional endorser, to claim a discount for half of the amount of his bond, and the part so discounted is immediately carried to the credit of the United States, and the bank takes upon itself the risk of the ultimate collection. In this way, sir, one half of the bond is collected at the sole risk of the bank, without any possibility of loss on the part of Government. And yet, sir, it is contended that the bank has nothing to do with the collection of the public revenue.

The gentleman from Maryland says, that the scarcity of money, and the alarm and dismay which the delegation of mechanics had represented, as existing in Philadelphia, could not be the effect of the contraction of discounts by the Bank of the United States, because that bank, as well as the State banks, are going on with their ordinary discounts. This is true; but the gentleman from Maryland has forgotten, that this delegation stated that the bank, upon the rejection of their memorial by the House of Representatives, had contracted their discounts, and that a corresponding contraction had

taken place in the discounts of the State banks, which had produced the pressure; and that that pressure had spread alarm and dismay through the city. That, before they left the city, the directors of the Bank of the United States had come to an understanding with the directors of the State banks, all of whom had determined to resume and continue their ordinary discounts until the last hour. Notwithstanding the banks had resumed their ordinary discounts, the panic which had been produced did not cease, and the scarcity of money, and the distrust which had taken place, still continued to exist in Philadelphia.

The gentleman from Maryland admits, expressly, that the transmission of your public money for the payment of the army and navy must be effected through the agency of banks, but contends that that object can be effected as well by the State banks as by a Bank of the United States. My friend from Kentucky (Mr. Pope) said, that the great characteristic difference between the present Government and that which existed under the old articles of confederation, is, that the present Government has, within itself, the means of executing its own measures, without relying upon the State Governments; whereas the old Congress had to rely upon the States for the execution of the measures which it had previously devised and adopted.

This opinion is substantially correct: for the constitutional dependence of the present Government of the United States, upon those of the States, is confined to its organization, and not to the execution of its constitutional powers after it is organized. The gentleman from Tennessee (Mr. Whiteside) has said, that we argue this question as though Congress was wholly independent of the State Governments. When, sir, I had the honor of submitting my reasons to the Senate, upon a former day, I expressly stated the cases in which the National Government was dependent upon those of the States, and proved, by referring to the constitution itself, that, in every case of that kind, the constitution imposed upon the States the highest obligation to perform the acts for which the Government of the United States was dependent upon them. The constitution having defined the cases in which this

Government shall be dependent upon the State Governments, I did not hesitate to declare it to be unwise and improvident to increase that dependence by legislative acts, when we were unable to impose any obligation on the States to perform the act. The same gentleman has said, that the objection to employ the State banks, was the result of a distrust in the State Governments, rather than in the State banks; and that this distrust was unreasonable, because the State Governments were composed of the same description of men who composed the National Government. If this be called argument, and is entitled to any weight, it is a two-edged sword, which cuts both ways. It equally proves the unreasonableness of the distrust which is felt against the Government of the United States, in relation to the exercise of the right to incorporate a bank. But, sir, to all this, the most satisfactory answer is, that I will trust no man to do for me what I can do so much better for myself. Why trust any man, when there is no necessity or reason for trusting him?

The gentleman from Maryland, in speaking of the means which have been resorted to, to procure the renewal of the charter, says that we have not procured memorials to be presented to Congress, praying the charter might not be renewed; we have not procured pamphlets to be written, published, and laid upon the tables of members, proving the unconstitutionality and inutility of the bank; we have not imposed upon the credulity of honest mechanics and manufacturers, and by that means procured delegations to be sent to pray for the rejection of the bank memorial. Surely, sir, the gentleman did not, by these declarations, mean to insinuate that any one of those gentlemen who support the bill upon your table have had any agency in procuring any application to be made in favor of the bank. I know, that gentleman's respect for himself; his respect for the Senate; his respect for the individual members of this body, as well as his respect for the general rules of propriety, exclude the possibility of his making such an insinuation.

[Mr. Smith explained, by saying, I exclude every idea of such an insinuation.]

Sir, I will tell the honorable gentleman from Maryland, what has been done by those who are opposed to the renewal of the charter. I do not mean the members of the Senate who are opposed to it, but those who have attempted to inflame public opinion upon this question. Letters, sir, have been written from this place, to induce the State Legislatures to instruct their members to oppose the renewal of the charter of the bank. I will ask the honorable gentleman from Maryland, whether he does not know that letters have been written for that purpose?

The gentleman from Maryland has said, and I am extremely sorry that he has, that the Bank of the United States had their agents in this city, for two sessions, intriguing with members of Congress to obtain a renewal of their charter. I can assure that gentleman that I have had as little to do with the agents of the bank as he has had. If, sir, I was disposed to retort upon those who are opposed to the renewal of the charter, I would ask if they have not seen published in the democratic papers of Pennsylvania, Maryland, and Virginia, extracts of letters said to be written in the city of Washington, charging the members of Congress, who are in favor of it, with being bribed and corrupted, and with being disposed to sell the sovereignty of the nation to British capitalists? Have they not seen, in the same papers, conversations detailed with great minuteness, which, it is pretended, have passed between members of Congress, calculated to excite public odium and indignation against the friends of the bill now under consideration? Sir, I will not, for a moment, indulge an idea, that these letters have been written or these conversations detailed by any member of this body. The idea that such has been the fact, is too humiliating, too degrading, not only to this honorable body, but to human nature itself, to be entertained but for one moment. And yet, sir, the author of a charge, as base as it is false, against my honorable friend from Kentucky, (Mr. Pope) has, day after day, occupied a seat in a gallery of the Senate, to which no person has a right of access, but by an introduction of one of the members of this body.*

* Mr. Crawford did not intend to intimate that General Smith, of Maryland, introduced the person alluded to, into the gallery, nor does he believe that he did introduce him.

Sir, the highway robber, when compared with the infamous fabricator of this base attempt to assassinate the reputation of this honorable member, becomes a virtuous and estimable character. Such, sir, has been the warfare which has been waged against the renewal of the charter. Denunciations, and charges of political apostacy, are the measures by which we have been assailed from without and from within. Sir, I have shown that the bank question was no party question in its origin; that it was a question upon which an honest difference of opinion always has existed, and does now exist. And, shall I be charged with deserting the standard of the People, while I am treading in the foot steps of the great father of his country? Shall I tremble at the charge of apostacy which has been denounced against me by the gentleman from Tennessee, (Mr. Whiteside) while I am pursuing the course which has been approved by a Gerry, a Langdon, and a Washington ---men whom the wise and virtuous have delighted to honor? No! While treading in the foot steps of these well tried patriots and enlightened statesmen, I will advance with a firm, undeviating step, unappalled by the howling of party rage, more terrific than the yell of the [aboriginal savage](#).

The gentleman from Maryland (Mr. Smith) has said that he has understood that a proposition was made in the Federal convention, to vest Congress with power to create corporations generally, and without limitation. Had I been a member of that convention, I should most certainly have voted against the proposition, because it would have been unreasonable. Why should such a power be delegated? Not certainly as necessary to execute the delegated powers, because they are very limited. A general power to create corporations would have enabled Congress to have created them *ad libitum*, where there was no possible relation between them and any one of the delegated powers. The vote upon the bill incorporating the bank proves, that, if such a proposition had been submitted, it must have been rejected, under a conviction that the power to create corporations is incident to such of the general powers as might require an act of incorporation completely to execute them, and fairly vested by the constitution in Congress; because ten of the members

of that convention were in Congress, and voted for that bill; because General Washington signed that bill; because the only member of that convention, now in Congress, voted for the bill, and is now in favor of renewing the charter; and because there were but eight members in that convention, in Congress, who voted against it.

Mr. President, I will now proceed to examine the objections which have been offered to the construction which I have given to several clauses of the constitution. In the observations which I made upon this part of the question, when I was up before, I endeavored to prove that every construction which had been given to this instrument, upon the idea of its being perfect, was likely to be erroneous. The gentleman from Virginia, (Mr. Giles) and the gentleman from Tennessee, (Mr. Whiteside) still view it as the model of perfection. They are certainly at liberty still to entertain that opinion. Every man has a right to erect his idol in this land of liberty, and to fall down and worship it, according to the dictates of his own conscience. I endeavored also to prove, that, if we applied the same rule of construction to that clause of the constitution from which we endeavor to derive the right to create a bank, which has been applied to that from which the power to erect a light-house has been derived, the constitutional difficulty at once disappears. Until my friend from Virginia, (Mr. Giles) and my friend from Tennessee. (Mr. Anderson) had otherwise declared, I had always understood the right to erect light houses had been exercised as incidental to the power to regulate commerce. It seems, however, that I am mistaken, and that this right is incidental to that clause which gives Congress the right to exercise exclusive legislation in certain places. The clause reads in the following words:

"To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings," &c.

Now, says my friend from Tennessee, this clause gives the right to erect dock yards; and, as dock yards must be on the

sea coast, therefore, Congress has the right to erect light houses, because they must also be on the sea coast. This argument is extremely logical, nay, syllogistical, in form, but it is extremely illogical in substance. The conclusion drawn from the premises is, as necessary as though I were to say that, because two and two make four, therefore five and five make twelve. The conclusion in the latter case is as necessary as in the former. But my honorable friend from Virginia (Mr. Giles) derives it from the authority given in this clause, to erect other needful buildings. But the question recurs, needful for what? Why, certainly for the purposes before specified. What are they? Forts, magazines, arsenals, and dock yards. If this clause gives any authority to erect forts, magazines, arsenals, and dock yards, the other needful buildings spoken of must be needful for these specified purposes. I should suppose that no man, who spends only a few days in this city, can be at a loss to determine what is comprehended under the term, "other needful buildings." Let him go to the dock-yard, nicknamed a navy yard, in this city, and he will there find a little town "of other needful buildings," in the words of the constitution. But, sir, I deny that this clause of the constitution expressly gives any right, but that of exercising exclusive legislation in the places to be accepted or purchased for the purposes therein specified. The right to erect forts, magazines, and arsenals, is fairly incidental to the right of declaring war, and of raising armies; and the right to erect dock yards is fairly incidental to the right of providing and maintaining a navy. But if, for the sake of argument, I should admit that the right to erect forts, &c. is given in this clause, how can it be proved that the right to erect a light house is also given? Forts, magazines, arsenals, and dockyards, are enumerated; and, as the constitution says that all powers, not expressly given, are retained, if the right to erect forts, magazines, &c. is given in this clause, most clearly the right to erect light houses is retained by the States, because it is not to be found in the enumeration contained in the clause.

When I had the honor of addressing the Senate, before I questioned the authority of the State Governments to create banks, I then stated, and I again explicitly state, that it is with

reluctance that I have felt it my duty to make any inquiry into the constitutional right of the State Governments to incorporate banks. The State Legislatures ought to have recollected the Spanish proverb, which says, that those who live in glass houses ought not to throw stones. Before they undertook to question the constitutional authority of Congress, they ought to have thoroughly examined the foundation upon which their own right rested. The honorable gentleman from Virginia (Mr. Giles) says, that the construction which I have given to that part of the constitution which prohibits the States from emitting bills of credit, would apply equally to promissory notes given by one individual to another, under the laws of a State, as to a bank bill. Permit me to inquire of that gentleman, whether he ever saw a law authorizing one man to give another his promissory note? He may search the pandects of Justinian; he may turn over the leaves of the musty volumes written upon the common law, from the days of Bracton and Fleta, down to the present day, and his search will be in vain: for the right to make contracts, the right to give promissory notes, is antecedent to, and independent of, all municipal law. The gentleman will find laws and decisions in abundance, regulating the effect of endorsements, and other collateral circumstances, and prescribing the manner of enforcing the payment of promissory notes, but he will never find a law giving the right to execute a promissory note. But it is said that the bills of credit, which the States are prohibited from emitting, must be bills of credit emitted on the credit of the State. If this distinction should be well founded, many of the State banks are still subject to the charge of unconstitutionally; because, in many of them, the States are directly interested, and wherever that is the case, their bank bills are bills of credit emitted on the credit of the State. But the correctness of this distinction may well be denied, because the restriction is as general as it could possibly be made. But it is said that this restriction applies only to bills of credit which are made a legal tender in the payment of debts; that bills of credit, designated in the constitution, are, *ex vi termini*, a legal tender. For the correctness of this exposition, an appeal is made to the

restriction which immediately follows it, which restrains the right of the States to make any thing but gold and silver a legal tender in the payment of debts. It appear to me that the latter restriction excludes, most emphatically, the construction contended for. If the States are prohibited from emitting bills of credit, it would have been, to say the least of it, wholly nugatory to say they should not make them a legal tender. If the bills are not emitted, it is impossible that they can be made a legal tender. To suppose that the restriction upon the right of the States to make any thing but gold or silver a legal tender has any connexion with, or influence upon, the restriction to emit bills of credit, is as absurd as to suppose that the decalogue, after having declared, that "thou shalt do no murder," should have added, but, if you will murder, you shall not rob and strike the dead. The construction of the restraint upon the right to make any thing but gold or silver a tender, is, that they shall not make specific articles, as tobacco or cotton, a tender, as was the case in some of the States.

But it is said that the history of the States will show that the bills of credit, specified in the constitution, were those only which were a legal tender in the payment of debts. Let us examine this point, according to the rule of construction applied to another clause in the constitution by a large majority of both Houses of Congress, during the present session. Another clause in the constitution gives Congress the power to admit new States into the Union, under two limitations. 1st. That no new State shall be formed within the limits of any State, without the consent of the State; and 2d. That no new State should be formed by the junction of two or more States, without the consent of such States, and also of Congress. These limitations prove that the formation of new States, within the limits of the United States, was in the view of the convention at the time that this clause was adopted; and the subsequent clause, which gives Congress the power to make rules for the government of its territories, proves that these territories were, at that moment, under consideration. In addition to these reasons, for believing that the framers of the constitution had no idea of forming new States, beyond the limits of the United States, those who were opposed to the

admission of Orleans as a State, contended that the history of the United States proves, that the power to erect new States, and admit them into the Union, was intended to be confined to new States within the limits of the United States at the formation of the constitution, and that a different construction would disparage the rights of the original States, and of course be a violation of the constitution. What reply did the majority of Congress give to this train of reasoning? They said that the right to admit new States cannot be subject to any other limitations or restrictions than those which are contained in the clause which gives the right; and as there is no restriction upon the right to erect new States without the then limits of the United States, Congress have an unlimited right to erect and admit them into the Union. Let us apply the same rule of construction to the restriction of the right of the States to emit bills of credit. The restriction is a general one; it has no exceptions; and every attempt to make exceptions ought to be repelled by the answer which was given to those who opposed the right of Congress to admit the territory of Orleans into the Union as a State. The construction I have contended for, gains additional weight when we consider the restriction which immediately precedes that under consideration. No State shall coin money, emit bills of credit, &c.

Bills of credit are but the representatives of money. The constitution gives Congress the right to coin money, and to regulate its value. It takes from the States the right to coin money, and to emit bills of credit. Why give to Congress the right to coin money, and regulate its value? Because the interest of the nation requires, that the current coin of the nation should be uniform, both as to its species and value. If this is the true reason why the right, of coining money, and fixing its value, was given to Congress, does not the right to issue that which is to be the representative of this coin; which in fact is to usurp its place; which is to be the real currency of the nation, necessarily belong to Congress? Does not the right to create a bank, which shall issue this representative of money, come within the same reason? I think it does.

My friend from Kentucky (Mr. Clay) contends that the right to create a bank will prove destructive to the rights of the

States, because, if Congress can incorporate a bank, it may, under some pretext or other, create other corporations, and authorize them to hold real and personal estate, which shall be exempt from the right of taxation by the States. That, if this is admitted, and he believes it generally is admitted, that the States cannot tax bank stock, in this way the States may be deprived of the power of taxation. Sir, I am one of those who do not admit the fact.

[Mr. Clay said that he did not admit it neither, though he had understood the bank held that doctrine.]

I am extremely glad we think alike, at least, upon this collateral point. The right of the States to impose taxes is unlimited by the constitution of the United States; they, therefore, can tax every species of property, which is within their legislative jurisdiction. The unlimited power of the States to impose taxes is, in all probability, the true cause of giving to Congress the power of exclusive legislation over all places which should be selected for the erection of forts, magazines, arsenals, and dock yards, because public property, to a great amount, would necessarily be collected in these places, and but for vesting the right of legislation in Congress to the exclusion of the States, all this property would have been subject to taxation, which would have produced great embarrassment. It has been said, not indeed upon this floor, but by men for whose opinions I entertain a very high respect, that the right of the States to tax bank stock is inconsistent with the right of Congress to create a bank. That the right of taxation destroys the right to create, because the States, by immoderate taxation, could drive the bank out of their limits. All arguments drawn from the abuse of a right ought to be received with great caution; but if it is entitled to any weight in this case, it equally proves the unconstitutionality of the State banks, because the right of Congress to lay and collect taxes is subject to but two restrictions; that they shall be uniform, and that direct taxes shall be according to representation. Suppose Congress was under a necessity of raising \$10,000,000 by direct tax, the whole or nearly the whole of this sum might be imposed upon bank stock, and by that means the State banks totally destroyed. The advocates of this doctrine are also

advocates for State banks. If the right of taxation by the States proves the unconstitutionality of the Bank of the United States, the right of Congress to tax, equally proves the unconstitutionality of the State banks.

To the fervid imagination of my friend from Kentucky, (Mr. Clay) this power to create a bank appears to be more terrific than was the lever of Archimedes to the frightened imaginations of the Romans, when they beheld their galleys suddenly lifted up, and whirled about in the air, and in a moment plunged into the bosom of the ocean. Are these apprehensions founded in reason, or are they the chimeras of a fervid and perturbed imagination? What limitation does the constitution contain upon the power to lay and collect taxes, imposts, duties, and excises? None but that they shall be uniform; which is no limitation of the amount which they can lay and collect. What limitation does it contain upon the power to raise and support armies? None other than that appropriations shall not be made for a longer term than two years. What restriction is to be found in it, upon the right to provide and maintain a navy? None. What upon the right to declare war, and make peace? None; none. Thus the constitution gives to the Government of the United States unlimited power over your purse; unlimited power to raise armies and provide navies; unlimited power to make war and peace; and you are alarmed, you are terrified at the power to create a bank to aid it in the management of its fiscal operations.

Sir, nothing short of my most profound respect for honorable gentlemen, who have frightened themselves with this bugbear, could induce me to treat the subject seriously. Gentlemen have said, that they are alarmed at the exercise of this power, and I am bound to believe them. Sir, after giving Congress the right to make war and peace; the right to impose taxes, impost, duties, and excises, *ad libitum*; the right to raise and support armies, without restriction as to number or term of service; the right to provide and maintain a navy without limitation; I cannot bring myself to tremble at the exercise of a power incidental to only one of these tremendous grants of power. The gentleman from Kentucky (Mr. Clay) contends,

that we have attempted to give a degree of weight and force to what we are pleased to call precedents, to which they would not be entitled in those tribunals from which we derive all of our ideas of precedents. I am happy to find that my friend from Virginia (Mr. Giles) agrees with me in opinion upon this subject. Indeed, the principal difference between that gentleman and myself is confined to the question of expedience. He thinks that the construction which has been given to the constitution ought to be considered as conclusive; and that great inconvenience will be produced by unsettling what ought to be considered as finally settled and adjudged.

I agree, also, with the gentleman from Kentucky, that a precedent, to have weight, must be in point; that the issue upon which the decision is made must be the same as that in which it is adduced as authority. To this, I most heartily agree, and will rely upon it to show that the cases which we urged as precedents are entitled to the greatest weight. In all cases between individuals, they are supposed to understand their own interests, and their own cases. The plaintiff is supposed to understand the point upon which the decision of his case must depend. The defendant is supposed to understand the ground of his defence. They make up an issue, either of fact or of law. It is this issue which is to be tried. Any declaration or expression of the judge, which is not confined to the issue, is of course entitled to no weight. Well, sir, what is the nature of the precedents upon which we rely? First, that a republican Congress, in the year 1804, passed a law extending the operations of this unconstitutional institution, as they contend, into territories, to which they had no right to extend them by their charter. In the year 1807, they pass a law punishing the forging of their bills. Now, sir, my friend from Tennessee (Mr. Anderson) says that those who passed the bank bill were afraid to venture that far ---they were afraid to pass a law to punish the counterfeiting of their bills; but, in the year 1798, in the plenitude of federal domination, they passed a law to punish counterfeiting the bills of the bank. It is certainly true, that the federal party did pass this bill in that year; but it is equally true, that the republican party, in the plenitude of their power, did pass a bill of the same kind in the year 1807.

Well, sir, what is the issue which is tendered in the passage of every bill by the Congress of the United States? First, That the constitution gives them the right to pass the bill; and second, That it is expedient. The first, sir, is the most important issue, made up between the National Legislature and the People of the United States, in passing bills by which their rights are to be protected or violated. How, then, are we told that these laws passed *sub silentio*? That the constitutional right of Congress to pass such a law never was discussed, or even thought of ?

Sir, suppose the gentleman from Kentucky had constituted me his attorney to do a particular act for him, and I had performed an act, under that power, which had no connexion with the one which he had authorized me to perform, and when charged with this violation of my trust, I should gravely say, really I never examined the power, but took it for granted that I had the right that in fact I had done it *sub silentio* ---what would my friend from Kentucky say to such a reply? But, suppose I had taken an oath to discharge the trust with fidelity and skill, and that I would, in all things touching the trust, confine myself to the power delegated to me. Suppose, I say, under these circumstances, I should violate this trust should transcend the authority given, and perform an act clearly not delegated? What would the gentleman say to me, when I gravely told him that I had not particularly examined the authority under which I had acted ---that I had done it *sub silentio* ? Sir, this way of disposing of these formal voluntary acts of the Government, sanctioning the legality and constitutionality of the bank charter, will not be accepted. Some more happy expedient must be devised.

But, sir, we are told that, because the constitution contains within itself the principles of amendment, that if any doubts existed on this subject, it ought to have been amended. Whenever the States have conceived their rights to have been affected by any construction which has been given to the constitution, they have shown that they know how to obtain relief. When the Supreme Court of the United States undertook to support the doctrine that an individual could sue a State, they did not hesitate to interfere, and the constitution

was amended. When an embargo was laid, in the year 1807, those States who were most inimical to that measure did not hesitate to offer an amendment to the constitution. Whenever a construction is given to the constitution by a legitimate and competent authority, those who are opposed to that construction ought to propose amendments, and not those who are satisfied with it. If the construction given to the constitution, by the creation of the bank, was thought by the republican party to be vicious, then, indeed, have they been guilty of the grossest act of negligence. It was in their power, and most assuredly it was their duty, to have amended the constitution, either by expressly giving or taking away the power. It was their duty to have settled the question forever. Suppose, sir, you now decide that it is unconstitutional for Congress to incorporate a bank; this will not settle the constitutional question. It will unsettle and render uncertain what has been settled for twenty years. You say you have not the right to incorporate a bank. Ten years hence other men come into power, and say they have the right, and exercise that right for twenty years. The bank, then, will have been constitutional for twenty years, unconstitutional for ten years, and constitutional for twenty more. Are we to go on in this unsettled, miserable, halting manner? God forbid.

Sir, I have closed the observations which I thought it my duty to make, in reply to the comments which have been made upon the remarks which I had previously submitted to the consideration of this honorable body. If, sir, I preferred my political standing in the State which I have the honor to represent (and, sir, I do not profess to have any out of it) to the public welfare, I should rejoice at the success of the motion which has been made by the honorable gentleman from Tennessee (Mr. Anderson). But, sir, as I believe the public welfare infinitely more important than any fleeting popularity which an individual like myself can expect to enjoy, I shall most sincerely regret the success of that motion.

Sir, I have said but little about the degree of distress which will flow from the dissolution of the bank, because I have not that kind of evidence which would enable me to judge of it with any degree of accuracy. The convulsed state, of the

European nations the immense losses which our commerce, has sustained by the operation of the decrees and orders of the tyrants of the land and the ocean, imperiously admonish us to beware of making untried and dangerous experiments. By supporting this institution, the tottering credit of the commercial class of your citizens may be upheld, until the storm shall have passed over. By overturning this great moneyed institution, at the present crisis, you may draw down to undistinguished ruin thousands of your unfortunate and unoffending fellow-citizens.

The question was then taken on the motion to strike out, and was decided as follows: *Yeas 17, Nays 17.*

Those who voted in the affirmative, were,

Messrs. Anderson, Campbell, Clay, Cutts, Franklin, Guillard, German, Giles, Gregg, Lambert, Leib, Mathewson, Reed, Robinson, Smith of Maryland, Whiteside, and Worthington.

Those who voted in the negative, are,

Messrs. Bayard, Bradley, Brent, Condict, Champlin, Crawford, Dana, Gilman, Goodrich, Horsey, Lloyd, Pickering, Pope, Smith of New York, Tait, Taylor, and Turner.

The Senate being equally divided, the President* determined the question in the affirmative, first submitting to the Senate the following prefatory remarks:

Gentlemen: As the object on which I am called upon to decide, has excited great sensibility, I must solicit the indulgence of the Senate whilst I briefly state the reasons which influence my judgment.

Permit me to observe, that the question to be decided does not depend simply upon the right of Congress to establish, under any modification, a bank, but upon their power to establish a national bank as contemplated by this bill. In other words, can they create a body politic and corporate, not constituting a part of the government, nor otherwise responsible to it but by forfeiture of charter, and bestow on its members privileges, immunities, and exemptions, not recognized by the law of the States, nor enjoyed by the citizens generally ?

It cannot be doubted that Congress may pass all necessary and proper laws for carrying into execution the powers specifically granted to the government, or to any department or office thereof; but, in doing so, the means must be suited and subordinate to the end. The power to create corporations is not expressly granted; it is a high attribute of

* George Clinton, Vice-President of the United States, president of the Senate.

sovereignty, and in its nature not accessorial or derivative by implication, but primary and independent.

I cannot believe that this interpretation of the constitution will, in any degree, defeat the purposes for which it was formed; on the contrary, it does appear to me that the opposite exposition has an inevitable tendency to consolidation, and affords just and serious cause of alarm.

In the course of a long life I have found that the government is not to be strengthened by an assumption of doubtful powers, but by a wise and energetic execution of those which are incontestible; the former never fails to produce suspicion and distrust, whilst the latter inspires respect and confidence.

If, however, after a fair experiment, the powers vested in the government shall be found incompetent to the attainment of the object for which it was instituted, the constitution happily furnishes the means for remedying the evil by amendment, and I have no doubt that in such event on an appeal to the patriotism and good sense of the community, it will be wisely applied.

I will not trespass upon the patience of the Senate any longer than to say, from the best examination I have been able to give the subject, I am constrained by a sense of duty to decide in the affirmative ---that is, that the first section of the bill be stricken out.

The proposed bill that was decapitated:

A Bill continuing in force for the term of __ the act entitled "An act to incorporate the subscribers to the Bank of the United States," on the terms and conditions therein mentioned.

Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled, That the act to incorporate the subscribers to the Bank of the United States, passed the 25th day of February, in the year of our Lord 1791, be and the same is hereby continued in force, subject to the provisions and conditions in this act specified, for and during the further term of __ years, from and after the 4th day of March next.

Sec. 2. *Provided, however, and be it further enacted,* That the President and Directors of the said Bank of the United States shall, on or before the __ day of __ next, pay into the Treasury of the United States, for the use thereof, one million two hundred and fifty thousand dollars.

Sec. 3. *And be it further enacted,* That the President and Directors of the said Bank shall, at all times, from and after the passing of this act, and during the continuance of the same, be holden and bound to make a loan or loans to the United States, if required and authorized by law, of any sum or sums of money, not exceeding at any one time five millions of dollars, reimbursable at the pleasure of the United States, and at a rate of interest not exceeding six per centum per year: *Provided,* That it shall be the duty of the Secretary of the Treasury to make his application in writing to the President and Directors of the said Bank, for such loan or loans, at least three calendar months prior to the time when such loan or loans shall be required: *Provided, also,* That the sum of two millions seven hundred and fifty thousand dollars, borrowed during the year eighteen hundred and ten, shall be considered as part thereof, and that no greater amount shall be required in any quarter of a year than one million of dollars: *And provided, further,* That all such loans shall be reimbursable at or before the expiration of the said term of __ years, unless it shall be otherwise agreed between the said corporation, and the United States.

Sec. 4. *And be it further enacted,* That, if the said President and Directors shall on any occasion fail to furnish any loan or loans, to be required by the United States, in the manner hereinbefore enacted, their corporation shall forthwith be dissolved, and the power thereof shall cease and terminate, anything in this act, or in the act hereby continued in force, to the contrary thereof in anywise notwithstanding.

Sec. 5. *And be it further enacted,* That the directors chosen by the stockholders of the said corporation on the first Monday of January in the present year, and the president chosen by the directors at the first meeting after such election, shall be capable of serving, by virtue of such elections, until the first Monday in January, eighteen hundred and twelve.

Sec. 6. *And be it further enacted,* That the act, entitled "An act to punish frauds committed on the Bank of the United States," passed the twenty-fourth day of February, eighteen hundred and seven, be and the same is hereby continued in force during the continuance of the said corporation; and the same shall at all times hereafter, and in all respects, be deemed and taken to apply to the said corporation, in the same manner that it has been deemed and taken to apply to the same heretofore.

Sec. 7. *And be it further enacted*, That the President and Directors of the said Bank shall, after the fourth day of March next, pay to the United States an interest at the rate of three per centum per year on all sums of money above the sum of ___ millions of dollars, which shall accumulate to the credit of the Treasurer of the United States in said bank, or in the branches of the same, and which shall remain there for ___: *Provided*, It shall be the duty of the Secretary of the Treasury, from time to time, to give notice in writing to the President and Directors, at least ___ days before the term or time at which the said interest shall begin to accrue and be computed; which notice in writing shall specify the exact amount of deposit so to remain for the whole year as aforesaid.

Sec. 8. *And be it further enacted*, That the United States shall be authorized, at any time during the continuance of this act, to increase the capital stock of the said corporation, in such manner as may be hereafter prescribed by law, and for which the United States shall be the subscriber, and own to an amount not exceeding in the whole ___ shares, and not exceeding in anyone year ___ shares: *Provided*, That, during the time the United States shall so hold stock in the said corporation, they shall have the right to appoint, in such manner as shall hereafter be declared by law, a number not exceeding ___ of the directors: And provided, also, That the shares thus to be subscribed and added, by and on behalf of the United States, shall not be sold at a price less than ___ per centum advance on each share.

Sec. 9. *And be it further enacted*, That the twelfth section of the before-mentioned act, entitled "An act to incorporate the subscribers to the Bank of the United States, passed the second March, seventeen hundred and ninety-one, be and the same is hereby repealed.

Sec. 10. *And be it further enacted*, That it shall be the duty of the President and Directors of the said Bank, on or before the ___ day of ___ next, to signify to the President of the United States, in writing, their acceptance, in behalf of the said corporation, of the terms and conditions in this act contained; and if they shall fail to do so, on or before the day above-mentioned, then this act shall cease to be in force.

February 21, 1811.

On motion of Mr. Leib,

Ordered, That the further consideration of this bill be postponed to the 1st Monday in December next.

February 22, 1811.

MR. SMITH, OF MARYLAND, asked and obtained leave to bring in a bill to repeal the 10th section of the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" which bill, on the 3d of March, on motion of Mr. Smith, was postponed to the 1st Monday in December next.

The said 10th section is as follows:

"Sec. 10. The said corporation may sell any part of the public debt, whereof its stock shall be composed, but shall not be at liberty to purchase any public debt whatsoever; nor shall, directly or indirectly, deal or trade in any thing, except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent, and not redeemed in due time; or of goods which shall be the produce of its lands. Neither shall the said corporation take more than at the rate of six per centum per annum for or upon its loans or discounts."

This bill eventually became a law, and was approved by the President on the 19th March, 1812.

PROCEEDINGS AFTER THE REJECTION OF THE BILL.

After the final rejection of the bill to renew the charter, the bank applied for a temporary continuation of their powers, for the purpose of enabling them to close up their affairs. It is believed that two years was the time solicited. The memorial of the bank was presented simultaneously in the House and in the Senate, but appears not to have been favorably received in either. The following are the proceedings which took place, and the reports that were made on this subject, in the two Houses.

IN SENATE.

February 25, 1811.

Mr. Leib presented the memorial of the Stockholders of the Bank of the United States, praying an extension of their charter so far as to enable them to settle the accounts of the bank, for reasons therein stated. The memorial was read, and, on motion of Mr. Leib,

Resolved, That it be referred to a select committee, to consist of five members, to consider and report thereon.

Ordered, That Messrs. Clay, Franklin, Leib, Anderson, and Bayard, be the committee.

March 2, 1811.

Mr. Clay, from the committee to whom was referred, on the 25th February, the memorial of the stockholders of the bank of the United States, praying that an act of congress might be passed, to continue the corporate powers of the bank, for a further period, to enable it to settle such of its concerns as may be depending on the 3d of March, 1811, respectfully offers, for the consideration of the senate, the following report:

That your committee have duly weighed the contents of the memorial, and deliberately attended to such explanations of the views of the memorialists as they have thought proper to present through their agents: That holding the opinion (as a majority of the committee do) that [the constitution did not authorise](#) Congress originally to grant the charter, it follows, as a necessary consequence of that opinion, that an extension of it, even under the restrictions contemplated by the stockholders, is equally repugnant to the constitution. But if it were possible to surmount this fundamental objection, and if that rule which

forbids, during the same session of the senate, the re-agitation of a proposition once decided, were disregarded, your committee would still be at a loss to find any sufficient reasons for prolonging the political existence of the corporation, for the purpose of winding up its affairs.

For, as it respects the body itself, it is believed that the existing laws, through the instrumentality of a trust properly constituted, afford as ample means as a qualified continuance of the charter would for the liquidation of its accounts, and the collection and final distribution of its funds. But should any inconvenience be experienced on this subject, the committee are persuaded it will be very partial, and such as the authorities, upon proper application, would not fail to provide a competent remedy for.

And, in relation to the community, if the corporation, stripped of its banking powers, were to fulfill bona-fide the duty of closing its affairs, your committee cannot see that any material advantage would be derived. Whilst, on the contrary, if it should not so act, but should avail itself of the temporary prolongation, in order to effect a more durable extension of its charter, it might in its operations become a serious scourge.

Your committee are happy to say, that they learn, from a satisfactory source, that the apprehensions which were indulged, as to the distress resulting from a non-renewal of the charter, are far from being realised in Philadelphia, to which their information has been confined. It was long since obvious, that one vacuum, in the circulation of the country, which was to be produced by the withdrawal of the paper of the bank of the United States, would be filled by paper issuing from other banks. This operation is now actually going on. The paper of the bank of the United States is rapidly returning, and that of other banks is taking its place. The ability to enlarge their accommodations is proportionately enhanced, and when it shall be further increased by a removal into their vaults of those deposits which were in the possession of the bank of the United States, the injurious effects of a dissolution of the corporation will be found to consist in an accelerated disclosure of the actual condition of those who have been supported by the credit of others, but whose insolvent or tottering situation, known to the bank, has been concealed from the public at large.

Your committee beg leave to present the following resolution:

Resolved, That the prayer of the memorialists ought not to be granted.

HOUSE OF REPRESENTATIVES.

A like memorial was, also, on the same day, presented to the House, and ordered to be referred to a select committee, to consist of Mr. P.B. Porter, Mr. Eppes, Mr. Macon, Mr. Davenport, Mr. Wilson, Mr. Shaw, Mr. Whitehill, Mr. Desha, and Mr. Ringgold.

March 2d, 1811.

Mr. Peter B. Porter, from the committee to whom was referred, on the twenty-fifth ultimo, the memorial of the stockholders of the bank of the United States, made the following report:

The committee to whom was referred the memorial of the stockholders of the bank of the United States, report:

That they have carefully examined the various matters set forth in the said memorial, and attentively listened to the representations of the gentlemen who have appeared in behalf of the said petitioners. The object of the memorialists is, to obtain an extension of their corporate power, beyond the period limited for the expiration of their charter, so as to enable them to prosecute for their debts, and to arrange, liquidate and close the various concerns of the company.

The committee are of opinion, that a law of congress, granting the powers prayed for, would facilitate the final adjustment of the affairs of the bank, although they do not think such a law indispensable to that object. But believing, as your committee do, that, in granting the original charter to the stockholders, Congress transcended the legitimate powers of the constitution; the same objection now presents itself to the extension of any of their corporate capacities.

If the committee had time to go into the investigation, and to present to the House the various reasons which have conduced to this opinion, it would be more than useless to divert its attention from the important concerns of the nation, at this late period of the session, to a subject which but a few days since, was so fully and elaborately discussed.

They therefore beg leave to introduce the following resolution:

Resolved, That the prayer of the memorialists ought not to be granted.